



CR-1427-2025 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

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CR-1427-2025 (O&M)

Date of Decision : 07.05.2025

RANJEET KAUR

... Petitioner No.1

And

DAVINDER KUMAR

.. Petitioner No.2

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Rahul Bhargava, Advocate with
Mr. Tanveer Singh, Advocate Advocate for the petitioner.

SUVIR SEHGAL J.**CM-8898-CII-2025**

1. For the reasons given in the application, it is allowed.
2. Orders passed by learned Sub Divisional Judicial Magistrate, Jalalabad (W) are taken on record as Annexure P-7, collectively.

Main case.

3. Instant petition has been filed under Article 227 of the Constitution of India, for setting aside order dated 10.01.2025, Annexure P-3, passed by the Family Court, Ferozepur, whereby an application, Annexure P-2, jointly filed by the parties for waiving off statutory period of six months under Section 13-B (2) of the Hindu Marriage Act, 1955 (for short 'HMA') has been declined.



4. Counsel for the petitioner submits that marriage between the parties was solemnized on 07.12.2009 and they were blessed with a male child, who is 13 years of age. He submits that due to irreconcilable differences between the parties, they had been residing separately since 15.12.2018 and a petition under Section 13-B of HMA, has been instituted before the learned Family Court, Ferozepur. Counsel submits that first motion was recorded on 23.12.2024 and the second motion is to be recorded on 25.07.2025. Counsel asserts that the parties have amicably settled their disputes and petitioner No.2 has agreed to pay sum of Rs.22 Lacs to petitioner No.1 by way of permanent alimony out of which 50% of the amount is to be kept in a fixed deposit in the name of the minor child, to be encashed when he turns 18 years. By making a reference to the interim orders, Annexure P-7, passed by the learned Judicial Magistrate, Jalalabad, in a petition filed under Section 125 Cr.P.C., counsel states that attempts were made to bring out a reconciliation between the parties by referring the matter to the Mediation Centre, but it turned out to be a futile exercise. He has made a reference to the judgments of the Supreme Court in **Amardeep Singh Versus Harveen Kaur, (2017) 8 SCC 746, Shilpa Sailesh Versus Varun Sreenivasan (2023) 14 SCC 231** as well as judgment passed by this Court in **Jagmeet Singh Versus Gaganpreet Kaur, (CR-802-2025, decided on 28.02.2025)** to submit that the cooling off period deserves to be waived off.

5. Having heard counsel for the petitioner, this Court is of the view that there is merit in the petition. Interpreting Section 13-B of the



HMA, Supreme Court in Amardeep Singh's case (supra) held as under:-

19. Applying the above to the present situation, we are of the view that where the court dealing with a matter is satisfied that a case is made out to waive the statutory period under Section 13-B(2), it can do so after considering the following:

(i) the statutory period of six months specified in Section 13-B(2), in addition to the statutory period of one year under Section 13-B(1) of separation of parties is already over before the first motion itself;

(ii) all efforts for mediation/conciliation including efforts in terms of Order 32-A Rule 3 CPC/Section 23(2) of the Act/Section 9 of the Family Courts Act to reunite the parties have failed and there is no likelihood of success in that direction by any further efforts;

(iii) the parties have genuinely settled their differences including alimony, custody of child or any other pending issues between the parties;

(iv) the waiting period will only prolong their agony.

The waiver application can be filed one week after the first motion giving reasons for the prayer for waiver. If the above conditions are satisfied, the waiver of the waiting period for the second motion will be in the discretion of the court concerned.”

6. Amardeep Singh's case (supra) has been followed by the Supreme Court in Shilpa Sailesh's case (supra). Adverting to the facts of the present case, it is apparent that the petition for divorce by mutual



consent was presented after more than one year of separation. Attempts were made before the Mediation Centre so that the parties could reconcile their differences but the proceedings did not fructify. Parties have now settled their differences including that of alimony as well as the custody of the child as is evident from a perusal of the averments made in the petition filed under Section 13-B *ibid*. This Court is of the opinion that the conditions laid down by the Supreme Court in **Amardeep Singh's** case (*supra*) have been satisfied and the waiting period of six months deserves to be waived off.

7. Accordingly, revision petition is allowed. Impugned order dated 10.01.2025, Annexure P-3, passed by the Family Court is set aside.

8. Parties are directed to appear before the Family Court, Ferozepur, on 21.05.2025 for recording of the second motion and for further proceedings in accordance with law.

07.05.2025
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No