



CRP(MD). No.3947 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 03.02.2026

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THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

CRP(MD). No.3947 of 2025

Anamika

... Petitioner

Vs

Nagendran

... Respondent

PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 18.11.2025 made in I.A.No.2 of 2025 in HMOP.No.218 of 2025 passed by the III Additional Sub Court, Madurai.

For Petitioner : Ms.M.Nanthini

For Respondent : Mr.S.R.Sathan Boopathy

ORDER

This Civil Revision Petition has been filed challenging the order dated 18.11.2025 made in I.A.No.2 of 2025 in HMOP.No.218 of 2025 on the file of the III Additional Sub Court, Madurai.



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2.The petitioner is the wife and the respondent is the husband.

Their marriage was solemnized on 19.05.2024, as per Hindu Customs and Rituals. Due to the matrimonial dispute arose between them, both the petitioner and the respondent jointly filed HMOP.No.218 of 2025, before the III Additional Sub Court, Madurai, seeking divorce on mutual consent. Pending such petition, both the petitioner and the respondent filed I.A.No.2 of 2025 seeking to waive the cooling-off period on the ground that they have been living separately for more than 19 months. However, the trial Court, by order, dated 18.11.2025, dismissed the said petition. Aggrieved over the same, the present Civil Revision Petition has been filed.

3.The learned Counsel for the petitioner would submit that statutory cooling off period has to be waived in cases of mutual consent divorce. She would further submit that since both the petitioner and the respondent have been living separately for more than 19 months, the statutory cooling off period shall be waived.



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4.The learned counsel for the respondent has no objection for allowing this petition.

5.Heard the learned Counsel on either side and perused the materials available on record.

6.It is admitted that the marriage between the parties have been solemnized in the month of May 2024 and they claim that they have been living separately for more than 19 months. Now they have filed a petition in H.M.O.P.No.218 of 2025 before the III Additional Sub Court, Madurai, seeking divorce on mutual consent. They have also filed an application to waive the statutory cooling-off period and the same was dismissed by the Court below, which is under challenge herein.

7.The question that arises for consideration is to waive-off the cooling period, as required under Section 13B(2) of the Act. The Hon'ble Supreme Court, in the decision in *Amardeep Singh Vs Harveen Kaur* reported in **2017 (4) RCR (Civil) 608**, has held as follows:-



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“16. The object of the provision is to enable the parties to dissolve a marriage by consent if the marriage has irretrievably broken down and to enable them to rehabilitate them as per available options. The amendment was inspired by the thought that forcible perpetuation of status of matrimony between unwilling partners did not serve any purpose. The object of the cooling off the period was to safeguard against a hurried decision if there was otherwise possibility of differences being reconciled. The object was not to perpetuate a purposeless marriage or to prolong the agony of the parties when there was no chance of reconciliation. Though every effort has to be made to save a marriage, if there are no chances of reunion and there are chances of fresh rehabilitation, the Court should not be powerless in enabling the parties to have a better option.

... ..

18. 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 13B\(2\)](#), it can do so after considering the following :

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



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ii) *all efforts for mediation/conciliation including efforts in terms of Order XXXIIA 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.*

... ..

21. *Since we are of the view that the period mentioned in Section 13B(2) is not mandatory but directory, it will be open to the Court to exercise its discretion in the facts and circumstances of each case where there is no possibility of parties resuming cohabitation and there are chances of alternative rehabilitation.”*

8.The above guidelines say there is an obligation on the part of the Courts to make last-minute efforts to save the marriage at any cost. Even the Courts want to save the matrimonial life rather than breaking it. In our society, marriage is considered as a sacred one and not a legal contract. With this view in mind, the law makers fixed the period of six months, so as to enable the parties to come together for reunion, instead



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of mutual divorce. But, in cases, where there is no possibility of re-union, especially after the divorce by mutual consent process has been initiated, the facts of the case has to be considered independently. A broken iron can be joined together, but not broken hearts and granting divorce to a couple, after considerable period of time, is nothing but operation success but patient died. Irretrievable marriage should come to an end at the earliest possible of time, so that the couple could have a better opinion to start their life, afresh.

9. Since it has now been held by the Hon'ble Supreme Court that the cooling off period mentioned in Section 13B(2) of the Act is not mandatory but directory, though it was once compulsory for mutual consent divorce and when there is no possibility of parties resuming cohabitation, this court is of the view that the cooling off period in this case is to be waived.

10. In view of the above, this Civil Revision Petition is allowed and the six months cooling-off period is waived.



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11. At this juncture, the learned counsel for the petitioner would submit that since some of the matrimonial cases have been listed before the In-charge Court instead of regular Court, orders could not be passed expeditiously.

12. Accordingly, wherever the HMOP.No.218 of 2025 is listed, the concerned Court shall decide and dispose of the same independently, within a period of two weeks from the date of receipt of a copy of this order, after ascertaining the *bonafideness* of the consent of the parties.

No costs.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

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Note : The learned Principal District Judge shall communicate this order to the concerned Court, wherever HMOP.No.218 of 2025 is listed.

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- 1.The III Additional Subordinate Judge, Madurai.
- 2.The Principal District Judge, Madurai.



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N.SENTHILKUMAR, J.

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