



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

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Civil Revision No.1553 of 2025

Date of decision :-20.03.2025

Navjot Kamboj

.....Petitioner

Versus

Jaspinder Kaur

.....Respondent

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Kawalpreet Singh Virk, Advocate
for the petitioner.

Ms. Payal Sharma, Advocate for the respondent.

NIDHI GUPTA J. (Oral)

Prayer in this petition is for setting aside the impugned order dated 24.2.2025 (Annexure P-4) passed by the learned Additional Principal Judge, Family Court, Ferozepur whereby the application dated 24.2.2025 (Annexure P-3) filed jointly by the petitioner and the respondent in case No.DMC/22/2025 titled as 'Navjot Kamboj vs Jaspinder Kaur' for condoning the mandatory/cooling period of six months as stipulated under Section 13-B of Hindu Marriage Act, has been declined.

Learned counsel for the petitioner, *inter alia* submits that vide the impugned order dated 24.2.2025 (Annexure P-4) the application (Annexure P-3) filed on behalf of petitioner and respondent for waiving off the mandatory/cooling period of six



months as stipulated under Section 13-B of Hindu Marriage Act, has been declined.

Learned counsel submits that the petitioner and the respondent were married on 27.2.2021 according to Sikh rites. Within less than one month of the marriage, since 21.3.2021 itself they have been living separately as they could not pull along. No child is born out of their wedlock. The respondent has to travel to Canada on 04.4.2025 as evident from her Air Ticket (Annexure P-5).

It is further submitted that the only reason given in the impugned order dated 24.2.2025 (Annexure P-4) for refusing to waive off the cooling period is that there is criminal litigation pending between the parties. Learned counsel points out that even petition (CRM-M-10766-2025) for quashing of the FIR No.18 dated 15.5.2024 (Annexure P-1 in CRM-M-10766-2025), registered under Sections 406, 498-A and 120-B IPC at Police Station NRI Ferozpur, District Ferozpur has been filed by the petitioner, in which notice of motion for 27.5.2025 has been issued by the co-ordinate Bench of this Court vide order dated 25.2.2025 (Annexure P-2). It is accordingly prayed that there is no ground is made out for refusal of waiving of the cooling period of requisite six months as stipulated under Section 13-B of Hindu Marriage Act.

Notice of motion.

Ms. Payal Sharma, Advocate has put in appearance and filed Power of Attorney on behalf of respondent. The same is taken on record. Ld. Counsel for the respondent/wife does not dispute the



submissions of learned counsel for the petitioner, and in fact, affirms that the above said submissions are true and correct.

Heard. Perused the case file.

The record evidences the above said assertions made on behalf of the parties to be correct. A perusal of the impugned order dated 24.2.2025 shows that the learned Family Court has declined to waive off the cooling off period of six months on the ground that: *“Further, only amount of permanent alimony has been settled between the parties, but the same is yet to be paid by the petitioner no.1 to the petitioner no.2, which is decided to pay at the time of recording of second motion statements. Further, criminal litigation is still pending between the parties and divorce can only be granted if there is nothing pending against the parties. Moreover, the parties have not made an application for sending the reference to the Mediation Centre, Ferozpur for reconciliation and rehabilitation because divorce cannot be granted in casual and hasty manner without giving an opportunity to sort out the differences arising out between the parties within a period of six months so as to make ensure at the time of recording second motion statements that there are no chances of compromise, reconciliation and rehabilitation between the parties.”*

The Hon’ble Supreme Court in landmark judgement of **Amardeep Singh v. Harveen Kaur, (SC) : Law Finder Doc Id # 899268** has held that the waiting period enshrined under Section 13B(2) of the Hindu Marriage Act is directory in nature, and the same can be waived off at the discretion of the court. In waiving off the said



mandatory period, the Hon'ble Supreme Court has delineated certain points for consideration to be borne in mind, which are as follows: –

“13. Thus, the Court should consider the questions:

- i) How long parties have been married?*
- ii) How long litigation is pending?*
- iii) How long they have been staying apart?*
- iv) Are there any other proceedings between the parties?*
- v) Have the parties attended mediation/conciliation?*
- vi) Have the parties arrived at genuine settlement which takes care of alimony, custody of child or any other pending issues between the parties?*

14. The Court must be satisfied that the parties were living separately for more than the statutory period and all efforts at mediation and reconciliation have been tried and have failed and there is no chance of reconciliation and further waiting period will only prolong their agony.

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18. 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;*
- ii) all efforts for mediation/conciliation including efforts in terms of Order 32A 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.*

19. The waiver application can be filed one week after the first motion giving reasons for the prayer for waiver.”

As already noted above, in the present case the parties were married on 27.2.2021; and have been living separately since 21.3.2021 i.e. since the past four years and after less than one month of the marriage; no child is born out of their wedlock. No doubt, no



application for mediation has been filed by the parties. However, it is my considered view that any mediation would have been an exercise in futility keeping in mind the above said long term of separation, and the fact that the parties have no child whose interest would bind them together. It is also undisputed that the respondent desires to go back to Canada, where she ordinarily resides; and as is also evident from the air ticket (Annexure P-5) for date of travel 4.4.2025.

The file further reveals that the petition under section 13B of the HMA (Annexure P-1), was filed on 17.1.2025. As per the terms and conditions of settlement/ compromise contained therein, the respondent shall not oppose the petition filed by the petitioner for quashing the FIR no.18 dated 15.5.2024; and the petitioner shall pay an amount of ₹25,00,000/- to the respondent *“after the quashing of the above mentioned FIR and at the time of final disposal of the divorce petition under section 13 B of the Hindu Marriage Act.”* From the above, it is clear that the parties have arrived at a genuine compromise and all terms and conditions have been settled thereby. Thus, keeping in mind the above facts, it is my considered view that the waiting period will only prolong the agony of the parties.

It is also undisputed position in law that judicial discretion has been granted to the courts to assist parties seeking dissolution of marriage by mutual consent, and to exercise discretion to waive statutory cooling-off period when reconciliation is not possible and issues are amicably settled, thereby freeing parties from prolonged stress of pending divorce proceedings. I find the present to be such a case.



Accordingly, the impugned order dated 24.2.2025 (Annexure P-4) passed by the learned Additional Principal Judge, Family Court, Ferozpur is hereby set aside; and the present petition is hereby **allowed** with a direction to the learned Additional Principal Judge, Family Court, Ferozpur to decide the petition No.DMC/22/2025 titled as 'Navjot Kamboj vs Jaspinder Kaur' filed by the parties herein under Section 13-B of Hindu Marriage Act, 1955 for dissolution of marriage by way of mutual consent, on the next date of hearing - which is preponed from 29.8.2025 to 27.3.2025. The parties are directed to appear before the learned Additional Principal Judge, Family Court, Ferozpur on 27.3.2025 for recording their second motion statements.

Pending application(s), if any, shall stands disposed of.

March 20, 2025

Vijay Asija

(**NIDHI GUPTA**)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No