



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

CR-2640-2025(O&M)

Date of decision : 06.05.2025

Jaspreet Kaur

... Petitioner

Versus

Anmoljot Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Gurbir Singh Sidhu, Advocate
for the petitioner.

Mr.Mohit Kumar, Advocate
for the respondent.

VIKAS BAHL, J.(ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India against the impugned order dated 08.04.2025 (Annexure P-1) passed by the Principal Judge, Family Court, Barnala, in HMA-105 of 2025 dated 27.02.2025, whereby the application for waiver of the six months period to record second motion statement in petition under Section 13-B of the Hindu Marriage Act, 1955 has been dismissed.

2. Learned counsel for the petitioner-wife as well as the respondent-husband have jointly submitted that in the present case, a joint petition under Section 13-B of the Hindu Marriage Act was filed by the petitioner and the respondent for dissolution of marriage between the parties and in the said petition (Annexure P-2), it was stated that the marriage of



the parties had taken place on 03.01.2022 and no child was born out of the same and that right from the beginning of the marriage, the nature and behavior of both the parties was different from each other and the relationship deteriorated and since 03.02.2022 both the parties have been residing separately. It was further averred that with the intervention of the relatives and panchayats, both the parties have arrived at a compromise to dissolve their marriage and that all the issues between the parties have been settled including the amount to be paid by one party to the other. It has further been decided between the parties that the parties will not file any case against each other.

3. It is pointed out that in support of the said petition, the first motion statement was recorded on 27.02.2025 and in the said statement, apart from reiterating the averments made in the petition under Section 13-B, it was further stated that despite intervention of the relatives and respectables, the matter could not be reconciled as there were temperamental differences between the parties and thus, in spite of best efforts, the matter could not be settled. It is submitted that after recording the said statement, the matter was adjourned to 28.08.2025 and on 10.03.2025 an application was filed for waiving off statutory period. In the said application, it was stated that the marriage between the parties has irretrievably broken down and the efforts for reconciliation have been made but they are in vain and in spite of the intervention of the relatives and panchayats, both the parties are unwilling to live together as husband and wife and that no useful purpose would be served by making the parties wait any further and delay would only prolong their agony. It is submitted that



however, the said application had been dismissed vide impugned order dated 08.04.2025. A joint prayer has been made that the present revision petition be allowed and the application dated 10.03.2025 be also allowed and the impugned order dated 08.04.2025 be set aside. In support of arguments, reliance has been placed upon the judgment of the Hon'ble Supreme Court in the case titled as "***Amit Kumar vs. Suman Beniwal***" ***Civil Appeal no.7650 of 2021 decided on 11.12.2021.***

4. This Court has heard the learned counsel for the parties and has perused the paper book.

5. Section 13-B of the Hindu Marriage Act, which provides for divorce by mutual consent, requires that before filing a petition under the said provision, the parties should be residing separately for a period of one year or more. The said condition is met in the present case inasmuch as it is the admitted case of the parties, which is apparent from the pleadings and the submissions made before this Court that the parties have been residing separately since 03.02.2022 whereas the joint petition was drafted on 24.02.2025 i.e., after a period of more than three years of separation. The second condition which has been mentioned in Section 13B of the Hindu Marriage Act is that the second motion is to be made not earlier than six months after the date of the presentation of the petition and not later than 18 months after the said date. The Hon'ble Supreme Court in the case of ***Amit Kumar (supra)*** had observed that the Hon'ble Supreme Court in the case of ***Amardeep Singh vs. Harveen Kaur*** reported as ***(2017) 8 SCC 746*** had observed that in case the Court was satisfied that a case was made out to waive the statutory period under Section 13B(2) of the Hindu Marriage Act,



it could do so and there were certain factors which were required to be considered in the said regard. It was further observed that the statutory waiting period of 6 months mentioned in Section 13B(2) of the Hindu Marriage Act was not mandatory but directory and it was open to the Court to exercise its discretion to waive the said requirement having regard to the facts and circumstances of the case. In the case of *Amit Kumar (supra)* where the parties were married for only 15 months and lived together for only 3 days, it was observed by the Hon'ble Supreme Court that the marriage was a nonstarter and that the parties had made efforts for reconciliation and that the parties were unwilling to live together as husband and wife and thus, no useful purpose would be served by making the parties wait and the delay would only prolong their agony and in view of the said facts and circumstances, the Hon'ble Supreme Court had allowed the appeal and set aside the order of the High Court as well as Family Court and while exercising its power under Article 142 of the Constitution of India, granted the appellant and respondent a decree of divorce by mutual consent under Section 13B of the Hindu Marriage Act by waiving off the statutory period of 6 months under Section 13B(2) of the said Act. The relevant portion of the said judgment is reproduced hereinbelow:-

“23. It is well settled that a judgment is a precedent for the issue of law that is raised and decided. A judgment is not to be read in the manner of a statute and construed with pedantic rigidity. In Amandeep Singh V. Harveen Kaur (supra), this Court held that the statutory waiting period of at least six months mentioned in Section 13B (2) of the Hindu Marriage Act was not mandatory but directory and that it would be open to the Court to exercise its discretion to waive the



requirement of Section 13B(2), having regard to the facts and circumstances of the case, if there was no possibility of reconciliation between the spouses, and the waiting period would serve no purpose except to prolong their agony.

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28. In this Case, as observed above, the parties are both well educated and highly placed government officers. They have been married for about 15 months. The marriage was a non-starter. Admittedly, the parties lived together only for three days, after which they have separated on account of irreconcilable differences. The parties have lived apart for the entire period of their marriage except three days. It is jointly stated by the parties that efforts at reconciliation have failed. The parties are unwilling to live together as husband and wife. Even after over 14 months of separation, the parties still want to go ahead with the divorce. No useful purpose would be served by making the parties wait, except to prolong their agony.

29. The appeal is, therefore, allowed. The impugned order dated 17th November, 2021 passed by the High Court and the impugned order dated 12th October, 2021 passed by the Family Court, Hissar are set aside.”

6. The facts of the present case are similar to the facts of the case of *Amit Kumar (supra)*, which was decided by the Hon’ble Supreme Court inasmuch as, even in the present case the marriage between the petitioner and the respondent is a non-starter inasmuch as it is admitted case of the parties that the marriage was solemnized on 03.01.2022 and the petitioner and respondent have been residing separately since 03.02.2022 and thus, they lived together only for a period of one month. It is further not in dispute that there is no child born to the petitioner and the respondent and



that they have been residing separately for the last three years and three months and all issues including issues of maintenance, permanent alimony etc. have been decided between the parties. It is further specific case of both the parties that all efforts made by all relatives and respectables for reconciliation have failed on account of temperamental differences between the parties and thus, the marriage has irretrievably broken down. From the facts it is apparent that no useful purpose would be served in delaying the recording of the statement and the same would only prolong the agony of the parties and thus, the present case would fall under the parameters of the law laid down by the Hon'ble Supreme Court in *Amit Kumar (supra)*.

7. Keeping in view the above said facts and circumstances, the present revision petition is allowed and the impugned order dated 08.04.2025 is set aside and the parties are permitted to move an application for preponing the case which is now listed for 28.08.2025 before the Family Court and on their doing so, the Family Court would prepone the main case and would give a date within 14 days of moving of the said application for recording the statements of both the parties with respect to the second motion and in case the parties record the said statements in consonance with their pleadings and their earlier statements, then, the Family Court would pass the necessary final order in the petition under Section 13-B of the Hindu Marriage Act, in accordance with law.

(VIKAS BAHL)
JUDGE

May 06, 2025.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No