



2026:PHHC:067983



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CR NO.3703 of 2026****Decided on: 04.05.2026****Gurpreet Kaur**

.....Petitioner

Versus

Jaspal Singh

.....Respondent

**CORAM : HON'BLE MR. JUSTICE DEEPAK GUPTA****Present:** Mr. Bikramjit Singh Randhawa, Advocate for the petitioner.**DEEPAK GUPTA, J.**

By way of the present petition filed under Article 227 of the Constitution of India, the petitioner has invoked the supervisory jurisdiction of this Court for setting aside the order dated 06.03.2026 (*Annexure P-3*) passed by the Addl. learned Principal Judge, Family Court, Sangrur, whereby the application filed by the petitioner seeking waiver of the statutory period of six months for recording the second motion statements in a petition under Section 13-B of the Hindu Marriage Act, 1955 was dismissed.

2. The marriage between the parties was solemnized on 26.09.2014 according to Sikh rites and ceremonies. One boy child was born out of their wedlock. Admittedly, the parties cohabited only for about eight and a half years after marriage. Due to temperamental differences, they started living separately since 12.03.2023.

3. With the intervention of relatives and respectables, the parties arrived at an amicable settlement, as there was no possibility of reconciliation, and they mutually agreed to seek dissolution of marriage by consent. Consequently, a joint petition under Section 13-B of the Act was filed and first motion statements were recorded on 19.12.2025.



4. Thereafter, the petitioner moved an application seeking waiver of the statutory waiting period of six months prescribed under Section 13-B (2) of the Act. The said application came to be dismissed by the Family Court vide the impugned order dated 06.03.2026, primarily on the ground that there was no sufficient material to waive off the cooling period.

5. Assailing the above order, learned counsel for the petitioner contends that the parties have been living separately for the last approximately more than 03 years, having resided together only for eight and a half years. It is submitted that no other litigation is pending between the parties, and insistence on the statutory waiting period would serve no purpose except to prolong the mental agony of the parties.

6. This Court has carefully considered the submissions made by learned counsel for the petitioner and examined the record.

7. The legal position with regard to waiver of the statutory period under Section 13-B(2) of the Hindu Marriage Act is no longer res integra. In ***Amardeep Singh v. Harveen Kaur, (2017) 8 SCC 746***, the Hon'ble Supreme Court authoritatively held that the period prescribed under Section 13-B(2) is directory and not mandatory, and that the Court has discretion to waive the same where insistence on the waiting period would only prolong the suffering of the parties. The relevant observations read 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 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 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.

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 concerned Court.

20. 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. Subsequently, in **Amit Kumar v. Suman Beniwal, 2022(1) RCR (Civil) 569**, the Hon’ble Supreme Court clarified that the factors enumerated in **Amardeep Singh’s case** are illustrative and not exhaustive, and that the discretion to waive the statutory period must be exercised keeping in view the overall facts and circumstances of each case. The Court further cautioned that judgments should not be construed with pedantic rigidity and reiterated that the paramount consideration is whether there exists any possibility of reconciliation and whether continuation of the waiting period would serve any meaningful purpose. It was observed further as under:

“27. For exercise of the discretion to waive the statutory waiting period of six months for moving the motion for divorce under [Section 13B \(2\)](#) of the Hindu Marriage Act, the Court would consider the following amongst other factors:

- (i) the length of time for which the parties had been married;
- (ii) how long the parties had stayed together as husband and wife;
- (iii) the length of time the parties had been staying apart;
- (iv) the length of time for which the litigation had been pending;
- (v) whether there were any other proceedings between the parties;
- (vi) whether there was any possibility of reconciliation;



(vii) whether there were any children born out of the wedlock;

(viii) whether the parties had freely, of their own accord, without any coercion or pressure, arrived at a genuine settlement which took care of alimony, if any, maintenance and custody of children, etc.”

9. When the facts of the present case are examined in the light of the aforesaid principles, it is evident that:

- the parties have been married since 26.09.2014 but cohabited only for eight and a half years;
- they have been living separately for the last approximately more than three years;
- one boy child has been born from the wedlock;
- no other litigation is pending between the parties; and
- both parties, out of their free will, have consented to the dissolution of marriage and there is no opposition from either side.

10. These facts unmistakably indicate that the marriage was a non-starter, that all efforts at reconciliation have failed, and that there is no likelihood of the parties resuming cohabitation. In such circumstances, insistence on the statutory waiting period of six months would not advance the object of the statute, but would merely prolong the agony and uncertainty in the lives of the parties.

11. The learned Family Court, while passing the impugned order, has adopted an unduly rigid approach and failed to exercise the discretion vested in it in the manner contemplated by the judgments of the Hon'ble Supreme Court. The impugned order, therefore, suffers from jurisdictional error and material irregularity, warranting interference under Article 227 of the Constitution of India.

12. Consequently, the present petition is allowed. The order dated 06.03.2026 (Annexure P-3) passed by the learned Addl. Principal Judge, Family Court, Sangrur, is hereby set aside. The statutory period of six



months for recording the second motion statements under Section 13-B(2) of the Hindu Marriage Act is waived. The parties are directed to appear before the concerned Family Court on any working day from 18.05.2026 to 23.05.2026, whereupon the Court shall record their second motion statements and proceed further in accordance with law. The matter already fixed for 07.07.2026 shall stand pre-poned in terms of the above directions.

13. With the aforesaid observations and directions, the instant petition stands disposed of.

**04.05.2026**

*sarita*

**(DEEPAK GUPTA)**

**JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No