

MHNG190003922025



Marriage Petition

No.28/2025

Pramod and 1 Vs. NIL

ORDER BELOW EXH.14

(Passed on 7th April, 2024)

By the present application, petitioners prayed to waive the statutory period of six months under Section 13-B(2) of Hindu Marriage Act, 1955.

2. Perused the application and record. Heard learned advocate for petitioners. The learned advocate for petitioners relied upon Judgment of Hon'ble Apex Court in the case of **Amardeep Singh Vs. Harveen Kour, 2018 (2) Mh.L.J.24** and submitted that, six months waiting/cooling of period contemplated under Section 13-B(2) of Hindu Marriage Act, 1955 is a directory provision and it can be waived in the circumstances of present case. In the said case Hon'ble Apex Court has laid down certain parameters which are reproduced below :

- 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 Code of Civil Procedure, 1908/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.

3. The respected advocate of the parties have cited the case of **Amit Kumar Vs. Suman Beniwal arising out of SLP (Civil) No.20108 of 2021 (Civil Appeal No.7650 of 2021)**, the Hon'ble Apex Court has considered the parameters laid down in the case of *Amardeep Singh* (cited supra) and held that 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 statue and construed with pedantic rigidity. In *Amardeep Singh Vs. 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.

4. The Hon'ble Apex Court has further laid down that 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.

5. Considering the said aspect, if the present case is considered marriage between the parties solemnized on 22.05.2021. The relation between the parties became strained and they started to reside separately since 20.04.2022. Considering these factual aspect, I hold that this is a fit case which warrants waiving of cooling period because waiting period will only prolong their agony and therefore, I pass following order-

ORDER

- 1] Application is allowed.
- 2] The statutory period of six months contemplated under Section 13-B(2) of the Hindu Marriage Act, 1955 is waived.
- 3] Costs in cause.

Katol
Date : 07.04.2025.

Sd/-
(A. A. Dhumkekar)
Civil Judge, Senior Division,
Katol.

CERTIFICATE

I affirm that contents of this P.D.F. File of order are word to word, as per original order.

Name of Stenographer : R.W.Vindane (Grade-II)