



CM-1607, 1608-CII-2026 in/and CR-9320-2025

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CM-1607, 1608-CII-2026
in/and CR-9320-2025
Date of decision: January 31st, 2026

Sudha through attorney Usha Rani

.....Petitioner No.1

And

Sukhwinder Singh through attorney Varinder Singh

.....Petitioner No.2

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Abhayjeet Singh, Advocate
for the petitioner.

Ms. Pragya Malik, Advocate
for the respondent.

VIKAS BAHL, J. (ORAL)

This is an application filed under Order IX Rule 9 read with Section 151 CPC seeking recall of order dated 14.01.2026 and restoration of the petition.

For the reasons stated in the application which is duly supported by an affidavit, the present application is allowed and order dated 14.01.2026 is recalled and the main case is restored to its original number and is taken on Board today itself.

Main case

1. The present joint petition under Article 227 of the Constitution of India has been filed by the wife (petitioner No.1) and husband (petitioner No.2). The challenge in the present revision petition is to the order dated 01.10.2025, whereby the application filed by the parties for



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waiver of the statutory period of six months for recording of the statement of second motion as provided under Section 13B(2) of the Hindu Marriage Act, 1955, has been dismissed. The petitioners had filed a joint petition under Section 13-B of the Hindu Marriage Act, 1955 for dissolution of marriage by decree of divorce by mutual consent. In the said petition, it was stated that the petitioners No.1 and 2 had married on 07.07.2019 as per Sikh religious rites and rituals at Gurdwara Dera Baba Achar Singh, Garhshankar, District Hoshiarpur and that although the marriage was duly consummated but there was no child from the wedlock. It was stated that on account of temperamental differences, there were daily quarrels and fights between the parties and the petitioners started apprehending physical and mental harm from each other and thus, it became impossible and impracticable to live under one roof. It is further specifically stated that the parents of the petitioners also intervened in the matter but in spite of their intervention, it became impossible for the petitioners to live with each other and they are residing separately since 31.03.2024. It was further stated that the petitioners had settled their past, present and future maintenance and all property issues and nothing is due from one petitioner to the other and that the consent to take divorce is mutual and is without any force or undue influence. The statement of petitioner No.1 as well as petitioner No.2 was recorded on 06.09.2025 in which all the abovesaid averments were reiterated and it was also further specifically stated that it was with the intervention of the respectables that a compromise had been effected between the parties with free consent and without any coercion and pressure and it was prayed that a



decree of divorce be granted by mutual consent. The case was thereafter adjourned to 16.03.2026 for recording of second motion statement. The petitioners had moved an application for waiver of the statutory period of six months and in the said application, it was specifically stated that the marriage had irretrievably broken down and it would be in the best interest of both the parties that the said period of six months be waived off.

2. The trial Court vide order dated 01.10.2025 however dismissed the said application.

3. Learned counsel for the petitioners has relied 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*** in support of his arguments and has submitted that in view of law laid down in the abovesaid judgment, impugned order be set aside and the application filed by the petitioners be allowed.

4. This Court has heard the learned counsel who has appeared on behalf of both the petitioners.

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 as well as the divorce deed that they have been residing separately since March, 2024 and the joint petition was instituted on 06.09.2025. 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 17 th 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 on a higher footing than the case before the Hon'ble Supreme Court in the case of *Amit Kumar (supra)*, inasmuch as, the petitioner Nos.1 and 2 were married on 07.07.2019 and have been residing separately since 31.03.2024 and thus, it is apparent that decision to part ways cannot be stated to be an impulsive decision. It is also a common case of the petitioners that all the claims including claims of maintenance/alimony have been settled and that all efforts for reconciliation have been made by the relatives but the same has not fructified and after several meetings, the petitioners in view of the fact that the marriage has failed irretrievably decided to part ways. Since, the parties are residing separately since 31.03.2024 and marriage has irretrievably broken down, any further delay in the case 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)*. Moreover, in the present case, there is no child and all aspects stand resolved.

7. Keeping in view the above said facts and circumstances, the present revision petition is allowed and the impugned order dated 01.10.2025 is set aside and the parties are permitted to move an application for preponing the case which is now listed for 16.03.2026 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 with respect to the second motion and in case the statements are in consonance with their pleadings and their earlier



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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.

8. Pending applications, if any, also stand disposed of.

January 31st, 2026
Puneet

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes