

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.801 /2026
[@ SLP [C] NO.3775/2026]

MISHA SOMANI

Appellant(s)

VERSUS

RITURAJ SOMANI

Respondent(s)

O R D E R

Leave granted.

We have heard the learned counsel appearing for the parties.

This is a case where both the parties were at *ad idem* in getting a divorce by mutual consent. The High Court by misconstruing the judgment passed by this Court in *Amardeep Singh v. Harveen Kaur* - (2017) 8 SCC 746, was pleased to reject the request made by the parties, for waiving of the cooling period of 6 months prescribed under Section 13B(2) of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act'). As rightly submitted by the learned counsel appearing for the parties, the decision in *Amardeep Singh* (supra) has been taken note of, and explained by this Court in *Amit Kumar v. Suman Beniwal* - (2023) 17 SCC 648. Paras 18 to 21 of the same states as follows:

"18. Where there is a chance of

reconciliation, however slight, the cooling period of six months from the date of filing of the divorce petition should be enforced. However, if there is no possibility of reconciliation, it would be meaningless to prolong the agony of the parties to the marriage. Thus, if the marriage has broken down irretrievably, the spouses have been living apart for a long time, but not been able to reconcile their differences and have mutually decided to part, it is better to end the marriage, to enable both the spouses to move on with life.

19. In *Amardeep Singh v. Harveen Kaur* (2017) 8 SCC 746, relied upon by the Family Court and the High Court, this Court held (SCC p.756, paras 19-20):

"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 13-B (2), it can do so after considering the

following:

- (i) The statutory period of six months specified in Section 13-B(2), in addition to the statutory period of one year under Section 13-B(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 32-A 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 court

concerned.

20. Since we are of the view that the period mentioned in Section 13-B(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."

20. The factors mentioned in *Amardeep Singh v. Harveen Kaur* (supra), in Paragraph 19 are illustrative and not exhaustive. These are factors which the Court is obliged to take note of. If all the four conditions mentioned above are fulfilled, the Court would necessarily have to exercise its discretion to waive the statutory waiting period under Section 13B (2) of the Marriage Act.

21. The Family Court, as well as the High Court, have misconstrued the judgment of this Court in *Amardeep Singh v. Harveen Kaur* (supra) and proceeded on the basis that this Court has held that the conditions specified in para 19 of the said judgment, quoted hereinabove, are mandatory

and that the statutory waiting period of six months under Section 13-B(2) can only be waived if all the aforesaid conditions are fulfilled, including, in particular, the condition of separation of at least one-and-half year's before making the motion for decree of divorce."

When the parties have taken a conscious decision to seek a decree of divorce by mutual consent under Section 13B of the Act, there is no point in keeping the marriage continuing.

Considering the above, we are inclined to hold that the order passed by the High Court is liable to be set aside and the same is, accordingly, set aside.

Consequently, we are inclined to grant a decree of divorce by mutual consent by invoking our power under Article 142 of the Constitution of India.

Accordingly, a decree for divorce shall be drawn up, and the terms of the Settlement Agreement at Annexure P/1 before us, shall form part of this order.

The appeal stands disposed of accordingly.

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

.....J.
[M.M. SUNDRESH]

.....J.
[NONGMEIKAPAM KOTISWAR SINGH]

NEW DELHI;
FEBRUARY 02, 2026.

ITEM NO.20

COURT NO.5

SECTION IV-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 3775/2026

[Arising out of impugned final judgment and order dated 16-01-2026 in MP No. 195/2026 passed by the High Court of Madhya Pradesh at Indore]

MISHA SOMANI

Petitioner(s)**VERSUS**

RITURAJ SOMANI **Respondent(s)**
IA No. 27282/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 27283/2026 - EXEMPTION FROM FILING O.T.

Date : 02-02-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Petitioner(s) Mr. Abhinav Malhotra, Adv.
Ms. Neha Vijayvargiya, Adv.
Mr. Mayank Kshirsagar, AOR
Ms. Pavani Verma, Adv.

For Respondent(s) Mr. Pranjal Kishore, AOR
Mr. Nagarjun Sahu, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

Leave granted.

The appeal stands disposed of in terms of the signed order.

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

(ASHA SUNDRIYAL)
DEPUTY REGISTRAR

(POONAM VAID)
ASSISTANT REGISTRAR

[Signed order is placed on the file]