

**Priya Vs. Sanjay Gaba**

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**SooperKanoon Citation :** [sooperkanoon.com/682122](http://sooperkanoon.com/682122)

**Court :** Delhi

**Decided On :** Feb-09-2004

**Reported in :** 109(2004)DLT825; 2004(74)DRJ433

**Judge :** J.D. Kapoor, J.

**Acts :** [Hindu Marriage Act, 1955](#) - Sections 13(B)(1)

**Appeal No. :** C.M. (M) No. 170 of 2004

**Appellant :** Priya

**Respondent :** Sanjay Gaba

**Advocate for Def. :** None

**Advocate for Pet/Ap. :** P.R. Thakur and; R.K. Saini, Advs

**Disposition :** Petition allowed

**Judgement :**

ORDER

**J.D. Kapoor, J.**

1. Through this petition the waiver of mandatory statutory period of one year in moving the petition for divorce by way of mutual consent as contemplated under Section 13(B)(1) of the Hindu Marriage Act has been sought by spelling out the

exceptional circumstances and the hardships, both the parties are passing through. However, it is pertinent to mention here that the statutory period of one year is going to expire only in the month of April, 2004. The parties have settled all their disputes and have compromised the matter.

2. Since out of the agreed amount of Rs. 7,11,000/- to be paid by the husband to the wife, Rs. 2,00,000/- have been paid and the remaining amount is to be paid after the divorce, petition is allowed and the FIR is quashed.

3. Looking to the facts of the case particularly statement of the parents of the girl that they have already found a boy for her who is going abroad and in case this two months period is not waived they would again find themselves in great hardship coupled with the facts mentioned in the application bringing out the circumstances which the parties agreed for divorce make out a case of exceptional circumstance which is sufficient for the waiving of the statutory one year period. As to the power of the Court to waive off this period the learned Counsel for the petitioner has placed reliance upon *Rabindra Nath Mukherjee v. I.T.I. Mukherjee @ Chatterjee 2 (1991) DMC 227; 1992(1) HLR Cal 445* and *Vinod Arora v. Smt. Manju Arora AIR 1982 Delhi 592*, wherein it was held that if there are exceptional circumstance such a period can be waived.

4. In view of the foregoing reasons the petition is allowed. The statutory period of one year is hereby waived as no useful purpose will be served nor will it be in the interest of parties that they should wait for another one or two months they have already parted and settled their disputes amicably and nothing survives in the marriage.

5. With the result the impugned order is set aside. The petition under Section 13(B)(1) stands restored with the direction to the Trial Court to consider the same without insisting upon the parties to wait for six months after the first motion.

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