

**110 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-42579-2015

Date of Decision :18.12.2015

Manisha and another

.....Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Naveen Batra, Advocate
for the petitioners.

- i. Whether Reporters of local papers may be allowed to see the judgment?
- ii. To be referred to the Reporters or not?
- iii. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

Prayer in the present petition filed under Section 482 of the Cr.P.C. is for issuance of a direction to respondents No.2 and 3 to protect the life and liberty of the petitioners from respondent No. 4.

The petitioners have got married against the wishes of their parents. Petitioner No.1 is minor. Petitioner No.1 in support of her age proof, has placed on record photocopy of her Computerised Result Sheet of Matriculation Examination (Annexure P-2) which depicts her date of birth as 12.02.1999. Petitioner No.2 in support of his age proof has also placed on record photocopy of his PAN Card (Annexure P-3) which shows his date of birth as 20.12.1996. Petitioner No.1 has already moved a representation before the Senior Superintendent of Police, Sangrur for protecting her life and liberty and that of her husband i.e. petitioner No.2. Copy of the representation is annexed as Annexure P-5.

Both the petitioners are minor. As per Annexure P-1 mother of petitioner No.1 has disowned her. Now the question arises as to where will she go. She does not want to go to Nari Niketan and states that she would

only go with her husband i.e. petitioner No.2. Learned counsel for the petitioners has relied upon a decision of Delhi High Court in case of **Neetu Singh v. State** reported as 1999(3) RCR(Criminal) 26 to contend that even a minor cannot be sent to Nari Niketan against her wishes. Now it has to be seen as to whom the custody of the minor would be given in these circumstances when her parents have disowned her. In this context learned counsel has relied upon another judgment of Delhi High Court in **Sh.Jitender Kumar Sharma v. State** and another reported as 2010(4) RCR(Criminal) 20 where it has been held that where a minor girl marries a minor boy her natural guardian is no longer her father but her husband and as far as custody of that minor is concerned, even the husband who is a minor can be the guardian of his minor wife and custody of her can be given to him.

Keeping in view the above mentioned judicial pronouncements, this Court is of the view that custody of minor petitioner No.1 can be given to her husband i.e. petitioner No.2 who is also a minor.

Without adverting to the merits of the controversy, the present petition is disposed of with a direction to the Senior Superintendent of Police, Sangrur-respondent No.2 to take an appropriate action on the said representation.

Since the main case has been decided, the pending Criminal Misc. Application, if any, also stands disposed of.

December 18, 2015
sunita

(AJAY TEWARI)
JUDGE