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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 2025/2016

VISHAL ANR

..... Petitioner

Through: Mr. Hari Prakash, Advocate

versus

COMMISSIONER OF POLICE ORS

..... Respondent

Through: Mr. Avi Singh, ASC with Ms. Megha
Bahl, Adv. with SI Yogesh Kumar
Mr. Hansraj Singh for R-3

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

23.09.2016

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I have heard learned counsel for the petitioner and the learned ASC. Petitioner no.2 has been produced before the court and I have also interacted with her.

The case of the petitioners is that they wish to live together, which is not to the liking of respondent no.3 and the other family members of petitioner no.2. The petitioners state that they wish to get married. Petitioner no.2 belongs to a different religious community than petitioner no.1. According to the petitioners, petitioner no.2 has attained the age of majority on 08.08.2016, since the date of birth given by her is 08.08.1998. However, the parents of petitioner no.2 claims that she is a minor. In fact, in the FIR No.480/2015, the year of birth of petitioner no.2 is disclosed as 2001.

In this background, vide order dated 18.07.2016, this court had directed that the bone age test of petitioner no.2 be conducted by the AIIMS. The bone age test of petitioner no.2 has since been received and as per the said report, the medical board consisting of 7 doctors have opined that the age of petitioner no.2 is between 16-17 years on the date of examination i.e. 22.07.2016. Since then, a further period of two months has elapsed.

Vide order dated 18.07.2016, petitioner no.2 was placed in the custody of Nari Niketan, Kilkari, Kashmere Gate. Since petitioner no.2 did not wish to meet her parents or any other family members, it was directed that unless she so desires, neither her parents, nor her siblings, nor anyone else from her family shall be permitted to meet her by Nari Niketan, Kilkari, Kashmere Gate. Petitioner no.2 states that the family members have not been permitted to meet her due to the said reason. Today, once again, she reiterates her desire not to meet either her parents, or siblings, or any other person from her family.

The court's attention has been drawn to the judgment of Full Bench of this court in ***Court on its own motion (Lajja Devi) & Ors. V. State & Ors.***, 2012 (131) DRJ 225 (FB). Learned ASC submits that in view of the said judgment, since the petitioner no.2 appears to be a minor, she should not be allowed to join the company of petitioner no.1 at this stage. He submits that though the petitioners have not married as yet, they intend to do so and in case they were to live together, petitioner no.2 would lose her option to walk out of the relationship in case she so desires after attaining the age of majority. The said decision has been followed subsequently by a learned Single Judge of this court in ***Meena & Anr. V. State & Anr.***, 2012 (194) DLT 525.

The aforesaid decisions were rendered by this court in situations where a minor girl had got married. The question considered by the courts was whether the custody of the minor girl should be placed in the hands of the husband.

In the present case, the petitioners have not yet got married. Learned counsel for the petitioners submits that they have acted with responsibility and have not got married knowing fully well that petitioner no.2 was a minor. However, as noted above, according to petitioner no.2, she has now attained the age of majority in August 2016 i.e. after the filing of this petition.

Mr. Singh has submitted that there is a margin of error in the bone age test and the said error could be upto one year on either side.

Petitioner no.2, who is present in court, does not appear to be below the age of majority. At the same time, considering the fact that the medical board consisting of 7 learned doctors of AIIMS has opined that her age is between 16-17 years as on the date of report, and the fact that there could be a margin of error of upto one year, I am inclined to direct that the custody of petitioner no.2 shall remain for a period of another six months with Nari Niketan, Kilkari, Kashmere Gate. During the said period, the petitioner no.1 shall be entitled to meet petitioner no.2 in case she so desires. He may visit the Nari Niketan, Kilkari, Kashmere Gate for the said purpose twice every week i.e. on Monday and Friday between 4:00 to 6:00 p.m. However, her parents or siblings or anyone else from her family shall not be permitted to meet her by Nari Niketan, Kilkari, Kashmere Gate.

At the end of the period of six months from today, petitioner no.2 shall be allowed to leave Nari Niketan, Kilkari, Kashmere Gate and at that

stage she may take a decision whether she wishes to join the company of petitioner no.1 or go elsewhere.

The police is also directed to continue providing adequate protection to petitioner no.1 from any threats perceived from the parents and relatives of petitioner no.2.

Petition stands disposed of in the aforesaid terms.

Order dasti under the signatures of the Court Master.

VIPIN SANGHI, J

SEPTEMBER 23, 2016

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