

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

**Crl. Misc. No.M-10263 of 2017 (O&M)
Date of decision : March 24, 2017**

Pooja and another

... Petitioners

VERSUS

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Petitioners in person with
Mr. Suresh Kumar Arya, Advocate.

SURINDER GUPTA, J.(Oral)

This petition is for seeking protection of life and liberty of petitioners, who have married against the wishes of private respondents.

Affidavit of petitioner No.2 filed in Court, is taken on record.

Learned counsel for the petitioners has limited his prayer for taking appropriate action in accordance with law on the representation dated 22.03.2017 (Annexure P-4) submitted by the petitioners to Senior Superintendent of Police, Amritsar (Rural).

As per petitioners, the date of birth of petitioner No.1-Pooja is 10.08.1998 as per copy of Aadhaar Card (Annexure P-1) and that of petitioner No.2-Harpal Singh is 21.04.1997 as per copy of Aadhaar Card (Annexure P-2). They got married on 22.03.2017. Photographs of marriage are Annexure P-3.

In view of the submission of learned counsel for the petitioners, but without expressing any opinion on the validity of marriage of petitioners, petition is disposed of with direction to respondent No.2-Senior

Superintendent of Police, Amritsar (Rural) to look into the representation dated 22.03.2017 (Annexure P-4) and take appropriate action in accordance with law, on receipt of copy of this order along with representation in his office.

Petitioner No.2-Harpal Singh is a child as per definition given in Prohibition of Child Marriage Act, 2006 and Section 10 of the aforesaid Act prescribed punishment for such child marriage.

Learned counsel for the petitioners while referring to the observation in Letters Patent Appeal No.385 of 2016, titled as Elaichi and another Vs. State of Punjab and others (decided on 16.05.2016) has argued that no direction can be issued to register FIR against the petitioners as petitioner No.2 was child at the time of marriage with petitioner No.1.

In the aforesaid case, direction was issued to register the FIR and investigate the same for investigation as the boy who solemnized marriage was less than 21 years of age. Division Bench of this Court while observing that validity of the marriage may be an issue to be gone into by the competent authority, set aside the observation of a Coordinate Bench of this Court giving direction for registration of the case. At the same time, it was observed that this should not be construed to be a binding precedent.

I am of the view that there is no need to issue direction to the police for registration of the FIR. However, if commission of any offence comes to the notice of police authority, it is duty bound to proceed in the matter.

In the case in hand, since petitioner No.2 is less than 21 of age, respondent No.2-Senior Superintendent of Police, Amritsar (Rural) may take note

in accordance with the provisions of Prohibition of Child Marriage Act, 2006 .

However, it is made clear that this order will not be interpreted as giving protection to the petitioners from any civil, criminal or any other legal proceedings instituted or intended against the petitioners.

March 24, 2017.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No