

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-19535-2017 (O&M)

*Date of Decision: 17.07.2017*

***GURJINDER SINGH AND ANOTHER***

***... Petitioner***

**VS.**

***STATE OF PUNJAB AND OTHERS***

***...Respondents***

**CORAM:    HON'BLE MR. JUSTICE KULDIP SINGH.**

Present:        Mr. Gaurav Mannan, Advocate,  
                         for the petitioners.

                         Mr. C.L. Pawar, Sr. DAG, Punjab.

                         Ms. Ashima Mor, Standing Counsel  
                         for U.T., Chandigarh.

                         Mr. Vivek Suri, Advocate,  
                         for respondents No. 4 to 6.

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**KULDIP SINGH, J (ORAL)**

The present petition has been filed under Section 482 of Cr.P.C. for protecting life and liberty of the petitioners and for directing respondents No. 4 to 7 not to interfere in the personal life of the petitioners.

Petitioner No. 2-Jasveer Kaur has been produced in the Court from the Protection Home, Sector-19, Chandigarh.

It comes out that the date of birth of petitioner No. 1-Gurjinder Singh is 02.02.1996 and that of petitioner No. 2-Jasveer Kaur is 25.03.2001. In this way, petitioner No. 1 is major and petitioner No. 2 is little more than 16 years of age. It is claimed that the petitioners have performed marriage on 24.05.2017 at Gurudwara against the wishes of their parents. Photographs regarding their marriage have also been annexed as (Annexure P-2 and P-3). Now, respondents No. 4 to 7 who are the relatives of petitioner No. 2 are extending threat to the petitioners.

The co-ordinate bench of this Court while noticing that she is minor vide order dated 26.05.2017 had sent the petitioner No. 2 to the Protection Home, Sector 19, Chandigarh.

Today, parents of both the petitioners are present in Court.

I have heard the learned counsel for the parties and have carefully gone through the case file.

Learned counsel for the respondent Nos. 4 to 7 has opposed the present petition on the ground that the girl is minor. It is stated that custody of the petitioner No. 2-Jasveer Kaur be given to respondent Nos. 4 to 7. However, prayer of the learned counsel for the respondent Nos. 4 to 7 has been vehemently opposed by the learned counsel for the petitioners. It is stated that after the marriage, husband is the only legal guardian of the minor as per Section 6 of the Hindu Minority and Guardianship Act, 1956. The mother of the petitioner No. 1 had also disclosed that the petitioner No. 2 is not within the prohibited degree of relationship as she is her aunt's granddaughter.

Learned counsel for the respondent No. 4 to 6 has further informed this Court that an FIR No. 68 dated 25.05.2017 has been registered against petitioner No. 1 under Sections 363 and 366-A at Police Station Nangal, District Roopnagar, Punjab and on account of the present petition, the police is not taking any action in the matter.

After considering the rival contention and the law on the point, I am of the view that petitioner No. 2 has performed marriage with petitioner No. 1, who has been questioned in presence of her parents and she has stated that she want to accompany with her husband-petitioner No. 1.

Under 21 of the Constitution of India, this Court is to protect the life and liberty of the petitioners irrespective of the background and facts of the case. It is a case of run-away marriage in which petitioner No. 1 has married a minor. The marriage is voidable only at the option of minor and the third party, even parents of the either party, cannot question the legality of their marriage. Therefore, it is for the petitioner No. 2 to decide whether she want to challenge the marriage or not. Their marriage is otherwise valid till it is avoided.

In view of the circumstances and will expressed by the petitioner No. 2, she is allowed to accompany her husband petitioner No. 1. Since, respondent No. 4 to 6 are opposing the prayer of the petitioner, therefore, I am of the view that the petitioners need protection of their life and liberty. In view of the matter, a direction is issued to Senior Superintendent of Police, Amritsar (Rural) to provide necessary protection to the petitioners for such a time as he deemed fit in the given circumstances.

Since, parents and maternal uncle of petitioner No. 1 are present in the Court and they have stated that they have their own vehicle, therefore, Chandigarh Police is directed to depute one official to accompany the petitioners to Amritsar. However, the cost for the transportation shall be borne by the petitioner No. 1.

However, the Nangal Police is at liberty to investigate the aforesaid FIR under Section 363 and 366-A IPC registered against the petitioner No. 1 in accordance with law and find out the truth and make out whether the offences therein are made out or not. If the Police finds that offences are made out, petitioners No. 1 and 2 shall be given clear notice of seven days before arresting them.

The present petition is disposed of accordingly.

Copy of this order be give to the learned standing counsel for  
U.T., Chandigarh under the signatures of the Bench Secretary.

**July 17, 2017**  
Suresh Kumar

**(KULDIP SINGH)**  
**JUDGE**

|                                           |          |                                                          |
|-------------------------------------------|----------|----------------------------------------------------------|
| <b><i>Whether speaking / reasoned</i></b> | <b>:</b> | <div>✓<br/><b>Yes</b></div> / <div><b>No</b><br/>✓</div> |
| <b><i>Whether Reportable</i></b>          | <b>:</b> | <b>Yes</b> / <b>No</b>                                   |