

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-33845 of 2017

Date of Decision: 12.09.2017

Sunil Kumar and Another

... Petitioner(s)

Versus

State of Haryana and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

Present: Mr. Pawan Attri, Advocate
for the petitioner(s).

Shekher Dhawan, J.

Both the petitioners are present in the Court and are identified by their counsel.

Petitioners have sought protection of their lives and liberty, inter alia, taking the plea that they performed the marriage with each other, whereas private respondents are not accepting their marriage and now they are apprehending danger to their lives and liberty from private respondents. Learned counsel for the petitioners contended that the petitioners performed marriage on 8.9.2017. Petitioner No.1 is aged 22 years, whereas petitioner No.2 is more than 17 years and nine month. Thus, petitioner No.2 is minor at the time of solemnization of marriage. Petitioners have taken the plea that they performed their marriage with their free will. Reliance has been placed upon a judgment rendered by the Hon'ble Division Bench of this Court in

Rajwinder Kaur and Another v. State of Punjab and Others 2014(4) RCR

Notice of motion.

On the asking of the Court, Ms. Neelam Kashyap, Deputy Advocate General, Haryana accepts notice on behalf of No. 1 to 3.

Having considered the submissions made by learned counsel for the petitioners; view taken by the Hon'ble Division Bench of this Court in ***Rajwinder Kaur's case*** (*supra*) and perusal of record, admittedly petitioner No.2 was 17 years & nine months old at the time of marriage and she is on the threshold of attaining majority. This Court is of the considered view that even marriage with a minor is voidable at the option of minor and it is not a void or illegal marriage. This Court is not to go into the validity of the marriage to provide protection. The fact that the parents of petitioner No.2 are not happy with the marriage. Therefore, the apprehension of the petitioners is genuine. Therefore, without going into the validity of the marriage, the petition is disposed of with a direction to respondent No.2- Superintendent of Police, Kaithal to assess the threat perception to the life and liberty of the petitioners and provide necessary protection to their life and liberty as he deems fit in the given circumstance. In case, the petitioners had committed any offence, the law will take its own course.

(Shekher Dhawan)
Judge

September 12, 2017

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No