

(114) Crl. Misc. No.M-19471 of 2018 (O&M)
Date of Decision: 15.05.2018

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Therefore, as per the aforesaid documents, petitioner no.1

would be 17 years and 4 months old at the time when the petitioners are stated to have married each other (as per paragraph 6 of the petition), i.e. 06.05.2000.

That being so, obviously offences punishable under the provisions of the Prohibition of Child Marriage Act, 2006, prima facie at least, would be made out against the petitioners, and as such, proceedings under the aforesaid provisions shall be initiated by respondents no.2 and 3, the offences under the said provisions being cognizable in terms of Section 15 of that Act.

Whether or not the allegations of performing a 'child marriage' are eventually proved, would be a matter to be gone into by the investigating agency and the competent court at the appropriate stage, on the basis of the evidence gathered/led, as the contention of the present petitioners is that petitioner no.1 is 20 years old, in support of which a copy of her Aadhaar Card has been annexed as Annexure P-1 with the petition, showing her date of birth to be 01.01.1998.

In this context, this Court has to observe, even as submitted by the Regional Deputy Director of the Unique Identification Authority of India (who had been summoned to this Court in similar circumstances), that at the time when an application is made for issuance of an Aadhaar Card, an applicant does not have the document in support of proof of her/his age, and she/he simply has to declare his/her age on the application form, which is then accepted as such, for the purpose of issuance of the Aadhaar Card.

Hence, in the case of petitioner no.1 also, the same procedure seems to have been adopted and therefore, the Aadhaar Card would be no firm proof of age.

However, the actual issue of age of petitioner no.1 would be determined in appropriate proceeding under the provisions of the Act of 2006.

Even having said that, this Court is not initiating proceedings under Section 340 of the Cr.P.C., keeping in view the age of the petitioners, even if it is eventually found that the petitioners have made a false statement as regards the age of petitioner no.1, with appropriate proceedings to be taken to their logical conclusion in any case under the provisions of the Act of 2006.

As regards the custody of petitioner no.1, Section 6 (c) of the Hindu Minority and Guardianship Act, 1956, stipulates that even the custody of a minor bride shall be with her husband (unless of course such bride herself militates against such custody); therefore, I see no point in directing that petitioner no.1 be taken away from the custody of petitioner no.2 and custody be handed over to respondents no.4 and 5, though of course, if during the course of investigation, respondents no.2 and 3 determine that petitioner no.1 actually does not wish to reside with petitioner no.2, she would be free to leave him.

It may be added of course that at the time when petitioner no.1 attains majority, obviously, she would have the option to continue with the

marriage or not, in terms of Section 3 of the Prohibition of Child Marriage Act, 2006.

The petition is disposed of with the above observations and directions.

15.05.2018
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(Amol Rattan Singh)
Judge

Whether speaking/reasoned: Yes
Whether reportable: Yes