

CRM-M-34397-2017

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

CRM-M-34397-2017

Date of Decision: 14.03.2018

Jyoti and another

.....Petitioners

Vs.

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Gursimran Singh Bawa, Advocate,
for the petitioners.

Ms. Monika Jalota, D.A.G., Punjab.

Mr. Ashdeep Singh, Advocate, for
Mr. Varun Sharma, Advocate,
for respondent no. 4.

AMOL RATTAN SINGH, J. (ORAL)

Pursuant to the order of this Court dated 22.01.2018, an affidavit of Sh. Parampal Singh, PPS, Senior Superintendent of Police, District Amritsar (Rural), has been filed in Court today by learned State counsel, in which it is stated that proof of the date of birth of petitioner no. 1 Jyoti had been obtained from the complainant in the complaint filed with the police, (i.e. respondent no. 4 Lakha Singh), in the form of a certificate issued by the Head Mistresses of the Government Middle School Bhaini, District Amritsar, with the statement of the Head Mistress also having been recorded under Section 161 Cr.P.C., to the effect that the date of birth of the said petitioner (Jyoti) is 02.03.2002 and that she passed the 8th standard from the school on 31.03.2016.

In view of the aforesaid fact, as also the fact that petitioner no. 2

Bikramjit Singh himself has stated that his date of birth is 03.09.1997, making him below 21 years of age as on the date of marriage, an offence punishable under Section 9 of the Prohibition of Child Marriage Act, 2006, has been added to the complaint which had been registered as DDR No. 24 dated 15.02.2018, at Police Station Gharinda, District Amritsar (it having now been converted into an FIR as per the learned State counsel).

Subsequently, petitioner no. 2 Bikramjit Singh was arrested on 08.03.2018, with petitioner no. 2 Jyoti also having been “recovered from him” on the same date, she having been got medically examined at the Civil Hospital, Amritsar, also on the same date, wherein the Medical Officer has opined that the possibility of sexual intercourse could not be ruled out.

Consequently, an offence punishable under Section 376 IPC has also been added to the array of offences, vide Daily Diary Report (DDR) No. 25 dated 08.03.2018, the age of Jyoti being less than 16 years at the time of occurrence, i.e. at the time when she and Bikramjit Singh are stated to have gone and got married.

Thereafter, petitioner no. 1 having been produced before the Judicial Magistrate Ist Class, Amritsar, 09.03.2018, that Court had sent her to the Child Welfare Committee, Amritsar, vide an order passed on the same date, after which she has been sent to the Nari Niketan, Jalandhar.

Learned counsel for the petitioners submits that he does not wish to say anything in defence of the petitioners and would like to withdraw his power of attorney as, if the aforesaid investigation by the police is correct, the Aadhar card shown to him by the petitioners in respect of petitioner no. 1, would also be “false”, where her date of birth is given as 02.03.1998.

Before disposing of this petition, it also needs to be noticed that vide the aforesaid order of this Court dated 22.01.2018, the ADGP (Crime), Punjab, had

also been directed to file an affidavit as to why, despite the marriage of minors being a cognizable offence, as per Section 15 of the Prohibition of Child Marriage Act, 2006, cognizance thereof is not being taken by the police even upon complaints pertaining to such marriages having been filed.

Pursuant to the said direction, an affidavit of Sh. Parbodh Kumar, Director, Bureau of Investigation, Punjab, has been filed in Court today by learned State counsel, the Crime Branch stated to be now re-designated as the Bureau of Investigation.

As per the said affidavit, information has been obtained from various fields unit in the State of Punjab, to the effect that a total of 10 FIRs were registered under the provisions of the Act of 2006 in the year 2016, 15 such FIRs were registered in the year 2017, with none registered in the year 2018 till 28.02.2018. [Obviously, inclusion of an offence punishable under the provisions of the Act of 2006 against the petitioners in the present case has not been taken into account by the Director, the aforesaid information having been given in this Court today on an affidavit filed by the SSP Amritsar (Rural)].

Be that as it may, it has been further stated in the affidavit of the Director, that instructions have been issued to all field units to invoke the provisions of the Prohibition of Child Marriage Act, 2006, wherever any such offence is reported to the police.

In view of the aforesaid affidavits filed, this petition is disposed of with a direction that as regards the case against the petitioners, with now an FIR also stated to have been registered against petitioner no. 2, as per learned State counsel, proceedings would continue as per law, with the parties naturally free to lead whatever evidence they wish to lead, in respect of the age of petitioner no. 1, as also on the question of whether she can be held to have been enticed away or

not by petitioner no. 2 (or that she actually went voluntarily), with the investigating agency and the competent Court to decide as per such evidence, whether any offences have been committed by petitioner no. 2 (and others) or not.

The Director, Bureau of Investigation, already having issued instructions with regard to registration of cases wherever such complaints are received by the police, nothing further needs to be stated in that regard by this Court, except to say that, naturally, before registration of an FIR making out any offence punishable under the provisions of the Act of 2006, the police would first determine the age of the person alleged to be a minor, from the school last attended by such person, and if no school has been attended, then from the Registrar of Births and Deaths etc.

The petition is disposed of with the aforesaid directions.

March 14, 2018
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes