

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

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CRM No.M-820 of 2018

Date of decision:26.2.2018

Harleen Kaur and another

... Petitioners

versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.Kamal Singh, Advocate,  
for the petitioners  
Mr.J.S.Walia, Sr.DAG, Punjab,  
for respondents no.1 to 3.  
Ms.Manjot Kaur, Advocate,  
for respondents no.4 to 8.  
Dr.Sukant Gupta, Addl.PP, UT, Chandigarh,  
for respondent no.9.  
...

AMOL RATTAN SINGH, J. (Oral)

Pursuant to the order dated 9.2.2018, a status report by way of an affidavit of Shri Ram Gopal, DSP (Central), Chandigarh, was filed in Court on 23.2.2018, with the matter adjourned till today.

Today, learned counsel for the petitioners submits that despite him having tried to contact the petitioners, their mobile phones numbers, as are available with him, are coming switched off. Dr.Sukant Gupta, learned Addl.PP, Chandigarh, as also Ms.Manjot Kaur, Advocate, appearing for respondents no.4 to 8, have pointed to the annexures annexed with the affidavit of the DSP, one of which is a copy of the Secondary School Examination result of Harleen Kaur, petitioner no.1, showing her date of birth to be 21.10.2001, thereby making her to be about 16 years and 2 months' old on the date of her marriage, stated to have been performed on 22.12.2017 as per paragraph 3 of the petition.

Dr.Sukant Gupta further points out that even the address disclosed in the memo of parties by the petitioners, of Village and Post Office Raja Sansi, Tehsil Ajnala, District Amritsar, is wrongly given, as the petitioners do not reside there, that also having been stated by learned counsel for the State of Punjab as recorded in the order dated 9.2.2018.

Learned counsel appearing for respondents no.4 to 8 further submits that in fact FIR No.715 dated 2.11.2017 has been got registered at the instance of the father of petitioner no.1, i.e. respondent no.4, Ranjit Singh, at Police Station Bilaspur, District Rampur, Uttrakhand.

That being so, the petitioners, prima facie at least having given a wrong date of birth of petitioner no.1 (21.10.1999), to show her to be above the age of 18 years, and the petitioners having chosen not to appear before this Court even today, this petition is disposed of with a direction that all proceedings under the Prohibition of Child Marriage Act, 2006, would continue against the petitioners, to be naturally duly proved in a Court of law, with nothing said with regard to the FIR stated to have been registered at Police Station Bilaspur, District Rampur (Uttrakhand), that being beyond the jurisdiction of this Court; and remedies in respect thereof, either by the petitioners or by respondents no.4 to 8, lying in the Court of competent jurisdiction. It is necessary to notice again in this context that neither the petitioners nor respondents no.4 to 8 have been found by the police, to be residents of Punjab, but of Uttrakhand.

However, it needs to be noticed by this Court that as per the provisions of both, the Hindu Marriage Act, 1955, as also the Prohibition of Child Marriage Act, 2006, the marriage is voidable and not void unless it

can be shown in terms of Section 12 of the Act of 2006 that petitioner no.1 was taken or enticed out of the keeping of her lawful guardian, which in her case, at the time immediately before when she was stated to have got married to petitioner no.2, would be her father, i.e. respondent no.4.

26.2.2018  
pk

( AMOL RATTAN SINGH )  
JUDGE

Whether speaking/reasoned  
Whether Reportable

Yes/No  
Yes/No