

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.10452 of 2018 (O&M)

Date of Decision:27.4.2018

Jaswinder Singh and another ... Petitioners

Versus

State of Punjab and another ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Onkar Rai, Advocate for the petitioners

RAJIV NARAIN RAINA, J. (Oral)

1. I have heard learned counsel for the petitioners and have gone through the material in the paper-book. No third party interest is involved in the matter of registration of marriage. Therefore, this petition can be disposed of without notice to the respondents.

2. The impugned order dated 9th February, 2011 (Annex.P-1) passed by the Registrar of Marriages, Jalandhar refusing to register the marriage of the petitioners, Jaswinder Singh and Dalvir Kaur, presently aged about 50 years and 49 years respectively, is not sustainable on the reason assigned for refusal to register that at the time of marriage on 5th January, 1988, the age of bridegroom was less than 21 years.

3. The matter is no longer *res integra* and is covered by the decision of the Supreme Court in *Smt.Seema vs. Ashwani Kumar*, (2006) 2 SCC 578 and the decision of the Division Bench of this Court in *Baljit Kaur Boparai and another vs. State of Punjab and another*, 2008 (3) RCR (Civil)

109. In *Baljit Kaur Boparai* case, this Court held that in case one of the

can be registered when the spouse attains age of 21 years. Registration of marriage cannot be refused on the ground that they had solemnized their marriage when one of the spouses was less than 21 years of age. Learned counsel also relies on my decision in *Sonia Giri vs. State of Punjab*, 2014 (1) RCR (Civil) 331 and *Mandeep Kaur and another vs. State of Punjab and others*, 2013 (4) RCR (Civil) 29. In *Sonia Giri, supra* it was held that Registering Authority cannot refuse registration of marriage on the ground that parents of bride were not present at the time of registration. Registrar is only to see that there was valid marriage. In *Mandeep Kaur, supra*, it has been held that if the application for registration of marriage is made after the statutory age is attained, registration of marriage cannot be refused on the ground that at the time of marriage one of the spouses was not of marriageable age. The Registering Authority at the time of registration of marriage is only to see that there was a valid subsisting marriage at the time of application and the parties have completed the age of 21 years at the time of registration and the conditions required under the Hindu Marriage Act, 1955 are satisfied.

4. In the present case, it is pleaded that the couple is illiterate and came to know of the impugned order dated 9th February, 2011 only when they applied for an Italian Visa. The Embassy refused visa to the petitioners on 15th March, 2018 for want of production of a valid marriage certificate. In these circumstances, the petitioners have approached this Court.

5. It is submitted by the learned counsel that the petitioners have two sons from the marriage who are major. The birth certificates of the children are attached as Annex. P-6. The elder son was born on 15th October, 1988 while the younger on 27th July, 1992. Marriage of the petitioners took

6. Having regard to the aforesaid, instant petition is allowed and the impugned order dated 9th February, 2011 (Annex.P-1) passed by the Registrar of Marriages, Jalandhar is hereby quashed. The respondents are directed to forthwith register marriage of the petitioners, if there are no other legal impediments.

27.4.2018
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No