

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Writ Petition No. 4743 of 2020

Date of Decision: 16.07.2020

Raj Kumar

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal

Present: Mr. Devender Kumar, Advocate
for the petitioner(s).

Anil Kshetarpal, J.

The present writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of habeas corpus for the release of minor detainee-Kashish Kumari, daughter of the petitioner.

It has been brought to the notice of this Court that the alleged detainee along with her husband has filed Criminal Writ Petition No 3765 of 2020, which was disposed of on 16.06.2020 with the following order:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 Pandemic.

By this petition, the petitioners seek protection of life and liberty at the hands of respondents no. 4 and 5, who are stated to be the parents of petitioner no.1, upon them having married each other (as contended) against the wishes of the said respondents, on 10.6.2020.

On a specific query put to learned counsel for the petitioners, it has been stated that neither are the petitioners in any prohibited relationship to each other, nor has any of them been married earlier. He states that he has obtained specific instructions from the petitioners in that regard.

Consequently, since protection of life and liberty is a fundamental right of every citizen under Article 21 of the Constitution of India, without making any comment whatsoever on the validity of the marriage, or otherwise, this petition is disposed of with a direction to respondents no.2 and 3 to ensure that the lives and liberty of the petitioners are not put to any harm or threat at the hands of the aforesaid respondents, or at their behest.

Since there is no firm proof of age of petitioner no.1 other than her affidavit, the concerned Commissioner of Police, Ludhiana, and the Station House Officer, Police Station Shimlapuri, District Ludhiana, shall have the matter enquired into from the school that petitioner no.1 studied in, after taking the name of that school from her parents, i.e. from respondents no.4 and 5, and if she is found to be below the age of 18 years, proceedings under the provisions of the Prohibition of Child Marriage Act, 2006, shall be initiated immediately as per law.

Further, since petitioner no.2 is shown to be 32 years of age, his antecedents shall also be determined to know whether he was earlier married (or not).

Still further, it is made clear that if any of the averments made in the petition is found to be incorrect, specifically with regard to either the petitioners being in any prohibited relationship to each other, or as regards their previous marital status, this order shall not be construed to be a bar on proceedings initiated as per law.”

Keeping in view the facts of the case, this Court is not inclined to issue any writ in the nature of habeas corpus. However, the Commissioner of Police, Ludhiana and the Station House Officer, Police Station Shimlapuri, District Ludhiana are directed to comply with the order dated 16.06.2020.

Disposed of.

(Anil Kshetarpal)
Judge

July 16, 2020
“DK”

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No