

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

CRWP NO. 5028 OF 2020

DATE OF DECISION : 21.07.2020

Ganga Singh and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Chander Shekhar Singhal, Advocate,
for the petitioners.

Mr. Suveer Sheokand, Addl. AG, Punjab.

ARUN MONGA, J. (ORAL)

Petitioners herein, purportedly being in love with each other, have married each other. They have approached this Court seeking protection from their respective fathers i.e respondent No.4 (father of the bride) and respondent No.5 (father of the bridegroom), who have not accepted their marriage.

2. Notice of motion.

3. Mr. Suveer Sheokand, Additional Advocate General, Punjab, who has joined proceedings on service of advance copy of the petition, appears and accepts notice on behalf of State of Punjab.

4. It seems rather incongruous that petitioner no.1, 36 years old, wouldn't wait for petitioner no.2 to even attain age of majority, she being 17 years few months old, and should marry minor girl less than half of his age in such haste. She is even below marriageable age. Perhaps petitioner No.1 was waiting for his bride to be born and turn 17 ! Be that as it may, being a personal matter between petitioner No.1 and 2, it is not for this Court to

comment on their personal likes and dislikes. The immediate concern herein is to protect the life of minor girl in case there is any threat perception to her life as has been pleaded in the petition herein. Conflict raised herein is the enforcement of fundamental rights of the petitioners to seek protection of their “life and liberty” as enshrined under Article 21 of the Constitution of India viz-a-viz a conceded violation of Section 5 (iii) of the Hindu Marriage Act, 1955, inasmuch as a minor girl has got married before attaining the marriageable age.

5. I am conscious of the fact that girl is 17 years and 07 months and not of marriageable age. Marriage, even if assumed to have taken place according to Hindu Rites is, therefore, in violation of Section 5 (iii) of the **Hindu Marriage Act**. The Act envisages statutory pre-requisites for the consenting parties to solemnize marriage between them. Sub Section 5(iii) thereof stipulates the minimum ages of a bridegroom and a bride.

6. A perusal of Section 5, *ibid* leaves no manner of doubt that one of the essential conditions of Hindu Marriage Act is that the bridegroom must be above 21 years and the bride above 18 years. However, at the same time, Section 11 of the Hindu Marriage Act which declares certain marriages, which are in contravention of Section 5 (supra), to be void, but precludes a marriage solemnized in contravention of Sub Section (iii) of Section 5, *ibid* from the purview of being regarded as void or invalid.

7. Without commenting on the validity of the marriage of the petitioners, the writ petition is disposed of with an observation that respondent No.2 i.e Senior Superintendent of Police, Hoshiarpur, would go through the contents of the representation dated 09.07.2020 (Annexure P-7) and ascertain/verify the threat perception of the petitioners. If deemed appropriate, necessary steps then would be taken to protect the life and liberty of the petitioners.

8. It is clarified that this order shall neither be treated as a stamp of this Court qua marriage of the petitioners, nor any reflection on the merits of the contentions raised by them in the present petition.

9. With the aforesaid observations, the writ petition stands disposed of.

JULY 21, 2020
shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No