

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-21595 of 2020

Date of Decision: 07.08.2020

Atish Kumar

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Ms. Neetu Singh, Advocate
for the petitioner(s).

Mr. V.G.Jauhar, Senior Deputy Advocate
General, Punjab for the respondents.

Anil Kshetarpal, J.

The petitioner has filed the present petition under Section 482 Cr.P.C. for issuing an appropriate direction to respondent No.2 & 3 to look into the subject matter and to take action against respondent No. 4 & 5 and not to harass the petitioner and his family.

The petitioner along with the others had also filed a Criminal Writ Petition No. 3672 of 2019 claiming protection to their life and liberty which was disposed of by this Court on 12.06.2020 with the following order:-

“All the 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 way of present petition, the petitioners are seeking protection of their lives and liberty at the hands of

respondents No.4 to 9, who are stated to be the parents and other immediate relatives of petitioner no.2, on account of the fact that they have married each other of their own free will, against the wishes of the said respondents on 08.06.2020. Photographs of what is stated to be a marriage ceremony have been annexed with the petition.

As regards proof of age of the petitioners, copies of their Aadhaar Cards have been annexed with the petition as Annexures P-1 and P2 respectively.

Since petitioner no.2 is admittedly below the legally marriageable age for female in terms of the provisions of the Prohibition of Child Marriage Act, 2006, though the marriage may not void even in terms of that Act or the Hindu Marriage Act, 1955, but only voidable at the instance of the minor upon attaining majority; yet the Act of 2006 mandates proceedings under the provisions of that Act against those who contract a marriage at an age less than in the Act, (for 21 years in the case of a male and 18 years in the case of a female).

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.

Consequently, without making any comment on the validity of the marriage or otherwise, while directing that the petitioners' lives and liberty be protected by respondents no.2

and 3, at the hands of respondents no.4 to 9 or anybody else, such protection being guaranteed to them under Article 21 of the Constitution of India, proceedings under the Prohibition of Child Marriage Act, 2006, shall be initiated as per law.

However, 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, or with regard to their age, this order shall not be construed to be a bar on proceedings initiated as per law.

With the aforesaid observations, this petition is disposed of”.

On the notice issued, learned counsel appearing for the State, on the instructions of Sub Inspector Jagdeep Singh, has assured this Court that the official respondents would not harass the petitioner or his family members and would take steps strictly in accordance with law.

In view of the above, the present petition is disposed of.

(Anil Kshetarpal)
Judge

August 07, 2020
“DK”

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