

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

117

CRWP-6325-2020 (O&M)

Date of Order:25.08.2020

SAMOON

..Petitioner

Versus

STATE OF HARYANA AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Munfaid Khan, Advocate,
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana

ANIL KSHETARPAL, J(Oral)

Hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The petitioner claims that he got married with Sakooni after the death of his first wife. The petitioner along with Sakooni had filed Criminal Writ petition No.3342 of 2020, which was disposed of on 16.07.2020, with the following order:-

“File has been taken for hearing through video conference due to Covid-19 pandemic.

CRM-W-284-2020

Application is allowed, as prayed for.

CRWP-3342-2020

The petitioners are seeking a direction from this Court to respondents No. 2 and 3 to protect their life and liberty as they apprehend danger to their life & liberty from respondents Nos. 4 to 7 i.e. parents/relatives of the petitioner No. 1, who are against the marriage solemnized by the petitioners.

Learned counsel for the petitioners argues that it is most likely that the private respondents might cause physical harm to the petitioners as they have solemnized the marriage against the wishes of respondent Nos. 4 to 7. Learned counsel for the petitioners further argues that both the petitioners are major by age and have solemnized marriage on 03.03.2018 and therefore, they want to live their independent life without any interference from the parents/relatives of petitioner No.1 i.e. Respondent Nos. 4 to 7.

Learned counsel for private respondents No. 4 to 7, who also appears through video conference, states that petitioner No. 1 is minor and the affidavit, which has been attached with this petition as Annexure P-3, projecting her to be major in age, is false and, therefore, the marriage solemnized between the petitioners is void.

This Court is not adjudicating upon the validity of the marriage solemnized by the petitioners. This Court is only concerned

with regard to threat to the life and liberty of the petitioners at the hands of respondents No. 4 to 7.

From the perusal of the file, it transpires that the petitioners have given a representation dated 27.05.2020 (Annexure P-4) to respondent No. 2-Superintendent of Police, District Nuh, for providing protection and also to ensure that life and liberty of the petitioners is not hindered in any manner by the private respondents No. 4 to 7.

Without going into the merits of the case or the claim made by the respective parties, the present petition is disposed of with a direction to respondent No. 2 to take appropriate action, if needed, by passing appropriate order on the representation dated 27.05.2020 (Annexure P-4) filed by the petitioners within a period of one month from the date of receipt of the copy of this order. While deciding the representation, respondent No.2 will also verify as to whether petitioner No.1 is minor or not. In case, it is found by respondent No. 2 that petitioner No.1 is minor and according to her wishes, she does not want to live with her parents, respondent No. 2 will ensure that she is sent to the Nari Niketan or any other female shelter home in District Nuh or a nearby area, where the said facility is available and petitioner No.1 is safe till she attains the age of majority. Petitioner No.1 will be free to decide where she wants to live after attaining the age of majority.

In case petitioner No. 1 is found to be minor, but wants to live with her parents, petitioner No. 2 will not create any hindrance in the execution of her will to stay with the parents, except exercising his right, if any, in accordance with law.

It is clarified that this order shall not be treated as an approval of this Court regarding the marriage solemnized by the petitioners and no opinion with regard to the validity of their marriage has been expressed in this order.

Petition stands disposed of accordingly.

The petitioner has now filed the present petition under Article 226 of the Constitution of India for the issuance of a writ in the nature of Habeas corpus for the release of his wife namely Sakooni.

Yesterday, i.e., 24.08.2020, when the case was taken up, learned State counsel prayed for time to get complete instructions and assist the Court.

Sh. Chetan Sharma, learned counsel appearing for the State of Haryana has stated that pursuant to the order passed by the high court on 16.07.2020, The Child Welfare Committee constituted under the Juvenile Justice (Care and Protection of Children) Act 2015 has passed an order for keeping Sakooni in 'Deepalya Children Home' as she was found to be a minor. He, hence, submits that the custody of Sakooni,

the alleged detainee, is in accordance with the directions of the Child Welfare Committee which is headed by a Magistrate.

The petitioner claims that Sakooni has already attained the age of majority.

Keeping in view the aforesaid facts, the petitioner is relegated to the remedy before the Child Welfare Committee. The petitioner would also have a right to challenge the order of Child Welfare Committee in accordance with law.

Disposed of accordingly.

August 25, 2020
nt

(ANIL KSHETARPAL)
JUDGE

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