

CRWP No. 6422 of 2020

Date of Decision: 26.08.2020

Rajkumari and another

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Balsher Singh, Advocate,
for the petitioners.

AMOL RATTAN SINGH, J. (ORAL)

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 immediate relatives of petitioner no. 1, upon them having married each other (as contended), against the wishes of the said respondents, on 14.08.2020.

On a specific query put to learned counsel for the petitioners, he submits that as regards petitioner no. 1, she has been married earlier but has been unfortunately been widowed, and as regards petitioner no. 2 this is his first marriage.

He further submits that they are not in any prohibited sapinda relationship to each other, with Mr. Praveen Bhadu, learned A.A.G., Haryana, submitting that he has also received instructions in this matter that if at all they are related, it is only by the first marriage of petitioner no. 1, with there being no blood relationship between them.

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 before this court of either of the petitioners, the Superintendent of Police, Bhiwani, and the Station House Officer of the area concerned, shall determine from the schools that they studied in, after making enquiries therefrom, their exact age, and if either of them is found to be below the legally marriageable age for females and males respectively (18 years and 21 years), proceedings under the provisions of the Prohibition of Child Marriage Act, 2006, shall be initiated immediately as per law.

Obviously that will not affect the validity of marriage because even a child marriage, as per the said Act, is not *void ab initio* but only voidable at the instance of the minor, upon attaining majority.

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.

August 26, 2020
nitin

Whether speaking/reasoned
Whether Reportable

(AMOL RATTAN SINGH)
JUDGE
Yes
No.