

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

CRWP-7647-2020

Date of Decision:14.10.2020

Nidhi Narwal and anotherPetitioners

Vs.

State of Haryana and othersRespondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. Ved Parkash, Advocate,
for the petitioners.

Mr. Deepak Bhardwaj, DAG, Haryana.

AMOL RATTAN SINGH, J. (Oral)

On 07.10.2020, the following order had been recorded:

“By this petition, filed under the provisions of Article 226 of the Constitution of India, the petitioners seek issuance of a writ in the nature of mandamus, directing respondent sno.2 to 6 to protect the life and liberty of the petitioners and to restrain the ‘private respondents’ no.7 to 10 from harassing them and from interfering in the peaceful married life of the petitioners.

Learned counsel for the petitioners first draws attention to the order dated 26.08.2020, passed by this court in the petition filed earlier by the same petitioners, i.e. CRWP no.6420 of 2020, which reads as follows:-

“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 to 6, who are stated to be the parents and relatives of petitioner no.1, upon them having married each other (as contended) against the wishes of the said respondents, on 21.8.2020.

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.

The Superintendent of Police, Ambala, is however directed to get the actual age of both the petitioners verified from the institutions from they last attended to determine as to whether they are both above marriageable age in terms of the provisions of the Prohibition of Child Marriage Act, 2006, i.e. 21 in the case of males and 18 in the case of females, and if their age has been falsely given in this petition, then naturally, proceedings under the provisions of that Act would be initiated against them if they are found to be below the such marriageable, all offences punishable under that Act being cognizable offences.

Obviously that will not affect the validity of the marriage presently, 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.

Other than that of course, protection of life and liberty being a fundamental right of every citizen, enshrined in 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.

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.”

He submits that the petitioners are now living at the address given in the memo of parties and are being summoned by the investigating officer, upon FIR no.346 dated 25.08.2020, having been registered at Police Station Indri, District Karnal, alleging therein the commission of an offence punishable under Section 346 of the IPC.

Notice of motion is issued to the respondents, with Mr. Deepak Bhardwaj, learned DAG, Haryana, accepting notice on behalf of the respondent State, on the asking of the court, he already having received instructions in the matter.

He submits that as per the investigating officer, the petitioners were being summoned to get the statement of petitioner no.1 recorded before a Magistrate in terms of Section 164 of the Cr.P.C., as to whether she has willingly married petitioner no.2 or not.

That being so, petitioner no.1 shall be taken under escort by lady police officials to the Duty Magistrate, Karnal, with the investigating officer to also reach there on Monday (12.10.2020) at 11.00 a.m., with the said petitioner to record her statement if she so wishes, in the absence of petitioner no.2 as also respondents no.7 to 10, so that such statement can be independently recorded.

In the meanwhile, the Superintendent of Police, Kurukshetra, shall ensure that the life and liberty of the petitioners is not put to threat and since, as per learned State counsel (on instructions from ASI Sukhdev Singh), petitioner no.1 is stated to have been born in the year 2000, thereby making her above marriageable age for women, the petitioners be not arrested even pursuant to the FIR registered at the instance of respondents no.7 to 10/any of them.

Adjourned to 14.10.2020.

The age of petitioner no.2 shall also be got determined by the SP, Kurukshetra, from the academic records of the school that he attended.

For that purpose, petitioner no.1 would hand over the school record/certificates of petitioner no.2 showing his date of birth, to the investigating officer, when she is present before the Duty Magistrate.”

Today, learned State counsel submits, on instructions from ASI Ram Parkash, that petitioner no.1 had made a statement before the learned SDJM, Indri, to the effect that she being an adult, she had married petitioner no.2 of her own will and that she wishes to continue to reside with him.

He submits that even as per the enquiry conducted, her date of birth is June 1, 2000, with the date of birth of respondent no.2 being November 04, 1997.

That being so, naturally the FIR registered against petitioner no.2 would be dealt with as per law in terms of the aforesaid statement made by petitioner no.1 and it shall be ensured that the petitioners and their family members are not harassed in any manner.

Learned counsel for the petitioners submits that in view of the above, the present petition has been rendered infructuous.

Disposed of as such.

October 14, 2020

dharamvir/

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO