

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

105

CRWP no.7537 of 2020

Date of decision:23.9.2020

Kajal and another

...Petitioners

vs

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.Ravi Malik, 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 to 11, who are stated to be their parents and other relatives, upon them having married each other (as contended) against the wishes of the said respondents, on 20.9.2020.

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.

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 petitioner no.2 is admittedly below the legally marriageable age for males, i.e. 21 years, as per the provisions of both, the Hindu Marriage Act, 1955, and the Prohibition of Child Marriage Act, 2006, naturally, while ensuring that protection of life and liberty is granted to the petitioners, such liberty shall be only as per law; and proceedings under the Prohibition of Child Marriage Act, 2006, shall be initiated, offences punishable under that Act being cognizable offences in terms of Section 16 thereof.

Obviously that will not affect the validity of 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.

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.

23.9.2020
pk

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No