

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

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CRWP no.7538 of 2020

Date of decision:23.9.2020

Aabida and another

...Petitioners

vs

State of Haryana and others

...Respondents

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

Present: Mr.Salim Ahmed, 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 10, who are stated to be the brothers and other relatives of petitioner no.1, upon them having married each other (as contended) against the wishes of the said respondents, on 14.9.2020.

Counsel for the petitioners initially stated that the petitioners are well above marriageable age as per Muslim personal law, and they already having been both married earlier once, it is their second marriage to each other, with petitioner no.1 having been divorced by her first husband, on him pronouncing a *talaq* three times in October, 2019.

As regards petitioner no.2, he submits that he has not divorced his first wife but obviously as per Muslim personal law, he is not prohibited

from entering into a second marriage.

Notice of motion.

Mr. Deepak Bhardwaj, learned DAG, Haryana, accepts notice at the asking of the court on behalf of respondents no.1 to 3, and points out that a triple *talaq* in any case has been declared to be illegal by the Supreme Court in case of Shayara Bano vs. Union of India (W.P.(C) no.118 of 2016, decided on 22.8.2017).

Hence, he submits that any divorce after that date by simply pronouncing *talaq* thrice, would not be actually a divorce in law.

Upon the aforesaid argument having been raised by learned State counsel, counsel for the petitioners submits that the said judgment would be effective with effect from January, 2019 (which in any case obviously is before October, 2019).

He further submits that the petitioners are not praying for any observation by this court as regards the authenticity of marriage but are only seeking protection of their life and liberty.

That being so, without making any comment whatsoever on the validity of the marriage, or otherwise, this petition is disposed of with a direction to the concerned Deputy Commissioner of Police in Gurugram, as also the SHO of Police Station Sohna, District Gurugram (on the oral request of Mr. Salim Ahmed), to ensure that the lives and liberty of the petitioners are duly protected, as per law, with obviously any proceedings otherwise taken to continue, as per law.

(It is to be noticed that firstly, there is no Superintendent of Police, Gurugram, and therefore, respondent no.2 is actually a non-existent

person impleaded; second, even the name of the police station is not given, whose SHO would be impleaded as respondent no.3. Be that as it may, the above order has been passed upon Mr.Salim Ahmed submitting that actually the petitioners are living within the jurisdiction of Police Station Sohna, District Gurugram).

23.9.2020
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No