

CRWP No. 9478 of 2020
Date of Decision: 16.11.2020

Gurpal Singh and another

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. L.S. Lakhanpal, Advocate for the petitioners.

Mr. Hittan Nehra, Additional AG, Punjab.

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 8, who are stated to be the parents, brother of petitioner No. 2 and parents of petitioner No. 1, upon them having married each other (as contended) against the wishes of the said respondents, on 10.11.2020.

On a specific query put to learned counsel for the petitioners, it has been stated that the petitioners are not in any prohibited relationship to each other. However, he submits that as regards petitioner no.1, he was earlier married but has obtained a decree of divorce from the competent court.

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 respondent no.2 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 Senior Superintendent of Police, 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, 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.

(AMOL RATTAN SINGH)
JUDGE

November 16, 2020

Manpreet

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