

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

108

CRWP-2380-2021

Date of decision: 09.03.2021

Mumtaz @ Babita and another	Versus	Petitioners
State of Haryana and others		Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Arun Sharma, Advocate for the petitioners.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioners have filed the present petition on the averments that petitioner No.1 aged about 20 years, who was a Hindu by religion but converted to Islam, solemnized marriage with petitioner No.2, who is a Muslim by religion, against the wishes of respondents No.4 to 8 and the petitioners are apprehending threat to their life and liberty at their instance.

Learned Counsel for the petitioners has submitted that petitioner No.2 is Muslim by religion but in para No.2 of the petition he has been wrongly mentioned to be Hindu by religion due to inadvertent typographical mistake which may be allowed to be corrected.

In view of the facts and circumstances of the case, the said mistake is allowed to be corrected and the Registry of this Court is directed to make the necessary corrections in para No.2 of the petition.

Notice of motion restricted to respondents No.1 to 3 only.

Pursuant to supply of advance copy, Mr. Ranvir Singh Arya, Addl. A.G., Haryana has appeared and accepted notice on behalf of respondents No.1 to 3.

Learned Counsel for the petitioners states that representation dated 04.03.2021 (Annexure P-4) was made to the Superintendent of Police, Yamuna Nagar at Jagadhri seeking necessary protection but no action has been taken so far in the matter and prays for issuance of direction in this regard.

Learned State counsel has no objection if appropriate direction for providing requisite protection to the petitioners is given.

In the present case, petitioner No.1, who was Hindu, performed marriage with petitioner No.2 after conversion to Islam in accordance with Muslim rites and ceremonies although petitioner No.2 has not attained the minimum marriagable age of 21 years. In view of the nature of relief sought, the question of validity of marriage of the petitioners is not required to be adjudicated upon in the present case. In any case, under Section 3 of the Prohibition of Child Marriage Act, 2006 marriage performed in breach of provisions thereof is voidable and not void. Petitioner No.1 being major is entitled to live with a person and at a place of her choice and both the petitioners will be entitled to live in live-in-relationship in the nature of marriage and also to protection of their life and liberty. For judicial precedent in this regard, reference may be made to judgment of Hon'ble Supreme Court in *Nandakumar and another Vs. State of Kerala and others : 2018(2) RCR (Civil) 899*.

Accordingly, the petition is disposed of with the directions to respondent No.2-Superintendent of Police, Yamuna Nagar at Jagadhri to look into the grievances of the petitioners as set out in the petition and also expressed in the representation (Annexure P-4) and take appropriate action for protection of their life and liberty as may be warranted by the circumstances.

However, it is clarified that in case any criminal case has been/is registered against petitioner No.2, then nothing in this order shall be construed as a bar for taking of appropriate action by the police authorities against him in respect thereof in accordance with law.

The Registry of this Court is directed to send a copy of this order along with copy of the petition and above-said representation to respondent No.2-Superintendent of Police, Yamuna Nagar at Jagadhri for requisite compliance.

09.03.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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