

CRWP No. 3896-2021

Date of Decision: 23.04.2021

Jaspreet Kaur @ Jaspreet Begum and another

.....Petitioners

Vs.

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Rajat Garg, Advocate,
for the petitioners.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

By this petition, the petitioners seek protection of life and liberty at the hands of respondents no. 4 to 10, upon them having married each other (as contended) against the wishes of the said respondents, on 18.04.2021.

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, i.e. the Senior Superintendent of Police, Fatehgarh Sahib and the S.H.O. Police Station Mandi Gobindgarh, District Fatehgarh Sahib, respectively, 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.

Petitioner no. 1, Jaspreet Kaur @ Jaspreet Begum, as per the copy of her Matriculation certificate, annexed as Annexure P-2 with the petition, is shown to be just above 18 years of age, with her date of birth being 10.04.2003 (as per the said copy of the certificate).

Petitioner no. 2, Azim Khan, is admittedly below the legally marriageable age in terms of the Prohibition of Child Marriage Act, 2006.

It is to be noticed that even though as per the Muslim Personal law a valid marriage can be contracted between the parties upon attaining the age of puberty; however, it is to be further noticed that the Prohibition of Child Marriage Act, 2006, does not differentiate on the basis of religion, as regards the commission of any offences punishable under the provisions of that Act.

Yet, as per the judgment of the Supreme Court in Hardev Singh vs. Harpreet Kaur 2020 (1) RCR (Criminal), if a girl/woman is above marriageable age in terms of that Act (above 18 years), no offence punishable under the provisions of that Act would be made out. Consequently, the life and liberty of the petitioners would be duly protected, as per law.

However, if upon verification of the certificate, Annexure P-2, the age of petitioner no. 1 is found to be actually below 18 years of age, this order shall not prohibit proceedings under the provisions of the Act of 2006, all offences punishable under that Act being cognizable offences in terms of Section 15 thereof.

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.

The petition is disposed of in the aforesaid terms, with of course it to be ensured that the life of the petitioners is protected under all circumstances, that being a basic fundamental right as already said, enshrined in Article 21 of the Constitution of India.

April 23, 2021
nitin

Whether speaking/reasoned
Whether Reportable

(AMOL RATTAN SINGH)
JUDGE
Yes
Yes