

CRWP No. 5943 of 2021

Date of Decision: 23.07.2021

Jyoti and another

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Deepanshu Mehta, Advocate, for the petitioners.

Mr. Sidakmeet Sandhu, A.A.G, Punjab.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

On 01.07.2021, the following order had been passed by this
court:-

Case heard by way of video conferencing.

“By this petition, the petitioners seek protection of life and liberty at the hands of respondents no.3 to 12, upon the petitioners having married each other (as contended) against the wishes of the said respondents, on 20.06.2021.

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.

Since there is no firm proof of age of either of the petitioners other than their Aadhar Cards, which is actually not a firm proof of age, as no document in proof thereof asked for at the time of issuance of Aadhar Card or while filing of the application for the same.

Petitioner no.1 is shown to be 19 years of age in the petition and it is considered appropriate to try and determine her age, to further determine as to whether there is any violation of the provisions of the Prohibition of Child Marriage Act, 2006.

Consequently, the SHO, Police Station Qadian, District Gurdaspur, is ordered to be impleaded as respondent no. 13 in the memo of parties, with the Registry directed to carry out necessary correction in the memo of parties.

Without making any comment on the validity of the marriage, notice is issued, with Mr. Saurav Khurana, DAG, Punjab, accepting notice on behalf of respondent no.1, 2 and 13, on the asking of the court.

Adjourned to 23.07.2021.

Respondents no.4 to 12 be served by way of normal process as also through the SHO, Police Station Qadian, District Gurdaspur, with the age of petitioner no.1 to be determined by the SSP, Gurdaspur and the SHO.

However, be that as it may, firstly of course any marriage performed by minors not being a void marriage but possibly only voidable under the provisions of the said Act (reference Sections 3 and 12 of the Act of 2006) and further, protection of life and liberty being a basic fundamental right enshrined in Article 21 of the Constitution of India, respondents no.2 and 3 are directed to ensure that the life and liberty of the petitioners are duly protected.

A gazetted officer is directed to file a reply after determining the age of petitioner no.1.”

Today, upon learned State counsel having determined that petitioner no. 1 is actually less than 18 years of age (as per his instructions

from Shri Harkrishan, DSP), learned counsel for the petitioners at the outset submits that the petitioners wish to withdraw the petition.

Though otherwise, if the age is verified to be less than 18 years of age, the petitioners would also be liable to 'contempt proceedings' as also possibly proceedings under the provisions of Section 340 of the Cr.P.C., for willfully misrepresenting before this court, yet, looking at their age, that action is not being taken, with this petition therefore ordered to be dismissed as withdrawn, but with it made absolutely clear that if, upon proper verification from the school that petitioner no. 1 last attended, her age is actually found to be less than 18 years of age, protection of life and liberty ordered by this court shall not prohibit any proceedings under the provisions of the Prohibition of the Child Marriage Act, 2006, offences punishable under that Act being cognizable offences in terms of Section 15 thereof.

With the aforesaid observations, as noticed above, this petition is ordered to be dismissed as withdrawn, but with obviously the life of the petitioners to be duly protected; and as regards liberty, it would be protected as per law.

July 23, 2021
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes