

Farmina @ Parmina and another

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Ms. Sunita Gupta, 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 and 5, upon them having married each other (as contended) against the wishes of the said respondents, on 20.05.2021.

On a specific query put to learned counsel for the petitioners, it has been stated that it is the first marriage of both the petitioners (with neither of them 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 enshrined in 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, 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.

There is no firm proof of age of either of the petitioners other than their Aadhar Cards, which is actually no firm proof of age, as no documentary proof is usually asked for at the time of applying for an Aadhar card or the issuance thereof.

Hence, if upon verification, the age of any of the petitioners is found to be below the marriageable age in terms of the provisions of the Prohibition of Child Marriage Act, 2006, this order shall not be construed to be a bar on any proceedings initiated under that Act, offences committed under that Act being cognizable in terms of Section 15 thereof.

It is of course to be observed by this court that both the petitioners are shown to be Muslims (as has also been contended by learned counsel appearing for the them) and therefore as per Muslim Personal Law, a girl can enter into a marriage upon attaining puberty.

Even so, the Prohibition of Child Marriage Act, 2006, does not differentiate (as regards legally marriageable age), between any religion or faith and consequently, though otherwise it may be only a voidable marriage and not a void one in terms of the said Act, yet, if any party to such a marriage (especially a female) is found to be below legally marriageable age in terms of the said Act, i.e. below 18 years of age, belonging to any particular faith would not preclude proceedings under the Act.

It is however to be reiterated that even so, a marriage entered into by a minor (regardless of religion or faith), would be only voidable at the instance of the minor upon attaining majority (unless it falls within the prohibition/exceptions contained in Sections 12 and 14 of the said Act).

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.

July 19, 2021
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No.