

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-6576-2021(O&M)

Date of Decision: 26.08.2021

Jasbeer Kaur and another

....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ruhani Chadha, Advocate for the petitioners.

Mr. Randhir Singh Thind, DAG, Punjab.

Mr. R.D. Rattewal, Advocate, for respondent Nos.4 and 5.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India with a prayer for issuance of any appropriate writ or direction to the respondent Nos.2 to 3 to protect the life and liberty of the petitioners at the hands of respondent Nos.4 to 8.

It was the case of the petitioners that petitioner No.1-girl is about 17 years and 11 months old and her date of birth is 16.08.2003 and so far as petitioner No.2-boy is concerned, he is aged about 20 years and his date of birth is 01.12.2001 and he will be attaining the age of marriage on 01.12.2022 at the age of 21 years and they intend to marry with each other

but because of the short fall in the age, they have not married with each other because they do not want to violate any law. However, the private respondents who are the parents of the girl had been posing imminent threats to the petitioners and, therefore, they had filed the present petition seeking protection.

On 16.07.2021 this Court had issued notice of motion and also directed the respondent No.2 i.e. SSP, District Kapurthala to depute a senior police official and take further appropriate action regarding the statement of the petitioners before the concerned Illaqa Magistrate since the girl was minor and was short of only one month attaining the age of 18 years and shall also sent the girl to the Nari Niketan/Safe Home till the date she attains the age of 18 years and also to ensure the protection in the meanwhile. It was also made clear that the orders would not create an impediment for taking any action in accordance with law against the petitioners, if at all there is any violation of any law by them. Thereafter, an application was filed by respondent Nos.4 and 5 by stating that the petitioners inter-se are real cousins and their marriage is void and, therefore, protection cannot be granted to them. Notice of the application was also given to the counsel for the petitioners/non-applicants and on the next date of hearing the status report of the police was also called for. However, on 12.08.2021 the learned counsel for the petitioners had disputed that the petitioners inter-se are not real cousins and sought permission to file an affidavit in this regard.

Today, an affidavit has been filed by the petitioner No.2-Gurpreet Singh by email since the matter is being taken up through vide conferencing.

A printout of the same is taken on record. As per the affidavit it has been deposed by the petitioner No.2 that both the petitioners are not first cousins and their parents are also different. An supplementary affidavit of the Deputy Superintendent of Police was also filed wherein the statement of petitioner No.1-Jasbeer Kaur which was given by her before the learned Illaqa Magistrate under Section 164 Cr.P.C has been reproduced wherein it is stated by petitioner No.1 that her date of birth is 16.08.2003 and she knows petitioner No.2-Gurpreet Singh for the last 5 years and they love each other and want to marry but the parents are not agreed with same and after the attaining the age of majority she wants to marry petitioner No.2-Gurpreet Singh.

The petitioner No.1 is admittedly above the age of 18 years as of today and she is major. The inter-se relationship between the petitioner as to whether they are first cousin or not and the marriage, if any, between them would be void or not, is not the subject matter of the present petition and is otherwise also disputed question of fact. The scope of the present petition pertains only to the extent of grant of protection of life to the petitioners.

In view of the above, it is directed that the petitioner No.1 who has now attained the age of 18 years cannot be kept in Nari Niketan/Safe Home and she shall be released from the same forthwith. Since she is major she has her own choice of the place of living and she may choose a place of living according to her own sweet will. So far as the question of protection of life of the petitioners is concerned, the learned counsel for the petitioners has prayed that still there is a threat from the private respondents.

In view of the above, the present petition is disposed of with direction to respondent No.2-SSP, District Kapurthala to assess the threat perception of the petitioners and thereafter in case so required shall ensure the safety of the petitioners and to take further steps in accordance with law.

It is made clear that nothing contained in this order shall be deemed to be any observation with regard to the relationship between the petitioners inter-se as to whether they are first cousins or not as the scope of the present petition is confined only to the grant of protection.

A copy of this order be sent to the SSP Kapurthala forthwith who shall also forward the same to the Nari Niketan/Safe Home where petitioner No.1 is staying at present so that she can be released from the same forthwith.

26.08.2021

rakesh

**(JASGURPREET SINGH PURI)
JUDGE**

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