

CRWP No. 6880-2021

Date of Decision: 26.07.2021

Ashu and another

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Rahul Jaswal, 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 6, upon them having married each other (as contended) against the wishes of the said respondents, on 03.07.2021.

Upon query to learned counsel for the petitioners, he submits that though petitioner no. 1 was earlier married, however, she obtained a divorce by of proceedings before the '*Panchayat*'; and thereafter the petitioners got married to each other on 03.07.2021, with it being the first marriage of petitioner no. 2.

Upon specific query to him, he submits that the petitioners are not in any prohibited '*sapinda*' relationship to each other.

Without making any comment whatsoever on the validity of any marriage between the petitioners, or on whether or not a '*Panchayati*' divorce (as is contended to have been obtained by petitioner no. 1), is valid or not in terms of the provisions of the Hindu Marriage Act, 1955, this petition being one seeking protection of the life and liberty of the petitioners, it is disposed of with a direction to respondents no. 2 and 3 to ensure that such life and liberty is duly protected, that being a basic fundamental right of every

citizen enshrined in Article 21 of the Constitution of India.

However, this order would not bar any proceedings instituted by any competent person as regards the first marriage of petitioner no. 1, which proceedings (if at all initiated), would naturally proceed on their own merits as per law.

The petitioners have been shown to be 24 years and 31 years of age respectively, and therefore it would not normally be the case that they would be actually below legally marriageable age in terms of the Prohibition of Child Marriage Act, 2006; yet, since 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.

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 26, 2021
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.