

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

112

CRWP-7156 of 2021

Date of Decision: 2.8.2021

Akshay and another

.... Petitioners

Vs.

State of Haryana and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr.Gorav Kathuria, Advocate,
for the petitioners

...

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

It has been brought to my notice that inadvertently, an order dictated in another petition, bearing CRM-M no.7127 of 2021, has been, *mutatis mutandis* incorporated as the order in this petition also and consequently the said order which has already been uploaded on the website of this court, is ordered to be deleted with the correct order, to be substituted.

Of course, it is to be observed by this court that there is a bar contained in Section 362 of the Cr.P.C. that would prohibit alteration of a judgment after the final order has been pronounced in criminal proceedings and even though these are proceedings by way of Article 226 of the Constitution of India but since the petition itself has a nomenclature of a 'criminal writ petition', that bar would still seem to otherwise apply.

Yet, since the mistake is a clerical one, hence that bar would not be seen to be operative.

By this petition, the petitioners seek protection of life and liberty at the hands of respondents no. 5 to 14, as they wish to marry each other and are in a live-in relationship (as contended), against the wishes of the said respondents.

Learned counsel for the petitioners submits that petitioner no.2 was married off to respondent no.5, by her parents, i.e. Respondents no.9 and 10, against her wishes but she having well attained the age of majority, she did not wish to reside with him and therefore she and the first petitioner started living together.

In view of the above, since protection of life and liberty is a fundamental right of every citizen enshrined in Article 21 of the Constitution of India, this petition is disposed of with a direction to respondents no.2 to 4 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.

Other than copies of their Aadhar Cards, copies of the Secondary/Senior Secondary Examinations Certificates in respect of both the petitioners have also been annexed with the petition, showing the date of birth of petitioner no.1 to be 15.12.1997 and that of petitioner no.2 to be 16.12.1999, thereby making them both above the age of majority.

However, if the age of petitioner no.1, upon verification, is found to be less than 18 years of age, naturally this order would not bar proceedings in respect of any offence alleged to have been committed under various provisions of the IPC, specifically also Section 376 thereof.

The aforesaid observation has been made wholly by way of

abundant caution and obviously, if petitioner no.1 is found to be above 18 years of age as per documentary evidence (or in the absence thereof in terms of determining the age of majority of a woman as per law), then possibly unless the said petitioner herself brings any criminal proceedings, I would not see how any criminal proceedings can be brought.

Naturally, this order would not affect any proceedings brought by respondent no.5 for restitution of conjugal rights or any other civil proceedings as may be otherwise maintainable at the instance of a competent person.

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.

2.8.2021
pk

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
No/Yes