

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

227

**CRWP-9916 of 2020
Date of Decision: 25.01.2021**

Preeti Kaur and another

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Gurinder Singh Hayer, Advocate,
for the petitioners.

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

AMOL RATTAN SINGH, J. (ORAL)

Case heard by video conferencing

On December 01, 2020, the following order had been passed by this
court:-

“All the cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

By this petition, the petitioners seek protection of life and liberty at the hands of respondents no.4 to 6, upon the petitioners having married each other (as contended) against the wishes of the said respondents, on 01.11.2020.

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.

Petitioner no.2 is admittedly below the legally marriage age for a male in terms of the provisions of Hindu Marriage Act, 1955, as also the Prohibition of Child Marriage Act, 2006. As per Section 6 of the Hindu Minority and Guardianship Act, 1956, the custody of a minor married girl would still be with her husband, though as per Section 12 (a) of the Act of 2006, where a minor child is taken or enticed out of the keeping of the lawful guardian, such marriage shall be null and void (and not just voidable at the instance of the minor when he/she attains majority).

However, learned counsel points to the affidavit of the father of petitioner no.2 through whom in fact the present petition has been filed on behalf of the said petitioner, to submit that, obviously, petitioner no.2 has not been enticed out of the keeping of his lawful guardian, i.e. his father.

Notice of motion is issued, with Mr. Ramdeep Partap Singh, learned AAG, Punjab, accepting notice on behalf of respondents no.1 to 3, on the asking of the court, with respondents no.4 to 6 to be served by way of normal process, with the notices issued to them, to be returnable on 17.12.2020.

Respondents no.4 to 6 be also served by way of dasti process.

[While effecting dasti service, naturally all measures as are to be taken during this pandemic, shall be taken, including wearing of masks and distancing].

A copy of the petition be sent by email to the learned State counsel by the counsel for the petitioner today itself.

In the aforesaid situation, the SSP, Sri Muktsar Sahib and the SHO, Police Station Malout, District Sri Muktsar Sahib, are directed to ensure that the life and liberty of petitioner no.2 are duly protected at the hands of respondents no.4 to 6 (or any other person), with a gazetted officer directed to file a reply to the petitioner before the next date of hearing.

However, with petitioner no.2 admittedly being below the legally marriageable age for males, 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 the provisions of that Act being cognizable in terms of Section 15 thereof (even if the marriage is not void but only voidable at the instance of the minor). ”

Today the report of the Registry is that even the process fee was not filed by counsel for the petitioners to try and effect the service, by normal process, on respondents no.4 to 6, with counsel submitting that since his father-in-law is unwell he could not collect *dasti* notices.

No reply has also been filed on behalf of the State.

Be that as it may, with a direction issued that the life and liberty of the petitioners be duly protected as per law, this petition is disposed of.

January 25, 2021
dinesh/

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No