

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

116

CRWP No.884 of 2022

Date of Decision: 01.02.2022

Davinder Kumar and another

..... Petitioners

Versus

State of U.T. Chandigarh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Amandeep Singh Gulati, Advocate,
for the petitioners.

AMOL RATTAN SINGH, J. (ORAL)

Case heard by 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 27.01.2022.

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.

Consequently, since protection of life and liberty is a fundamental right of every citizen under 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 proof as no documentary proof is usually asked for at the time of applying for the Aadhar card or the issuance thereof.

Hence, if upon actual verification, the age of the petitioners, especially petitioner no.2, is found to be below marriageable age in terms of the Prohibition of Child Marriage Act, 2006, this order will not bar proceedings under the provisions of that Act, all offences punishable under the provisions of the said Act being cognizable in terms of Section 15 thereof.

Of course, it is to be observed that in terms of Section 3 of the said Act, a marriage performed by a child (as defined under that Act), may not be void but only voidable upon the said minor attaining maturity. However, that still does not bar proceedings under that Act for entering into a marriage before the legally marriageable age as per the 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.

February 01, 2022
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No