

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

110

CRWP-3736-2022

Date of Decision:25.04.2022

Jyoti

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Bhal Singh Beniwal, Advocate,
for the petitioner.

Mr. Ashish Yadav, Addl. A.G., Haryana

VINOD S. BHARDWAJ , J.(Oral)

The instant criminal writ petition filed under Article 226 of the Constitution of India for issuance of a writ in the nature of mandamus directing the official respondent Nos.1 to 3 to protect the life and liberty of the petitioner and not to hand over the custody of the petitioner to respondent No.4, who wanted to marry her with respondent No.5.

2. Learned counsel appearing on behalf of the petitioner has contended that the petitioner is a minor and approached through Sandeep Kumar who is her next friend and that her father wants to forcibly marry her, even though she is a minor. It is contended that respondent No.4 in collusion with respondent No.6 have already started preparation for the marriage of the petitioner with respondent No.5. Having left with no other option, the

petitioner left her parental house on 18.04.2022. It is also contended that the petitioner does not want to go her parental house and wants to live with Sandeep Kumar till she attains the age of majority. She has now filed the instant petition for seeking directions as referred to above.

3. On a specific query being asked to the counsel for the petitioner about the relationship of Sandeep Kumar with the minor-petitioner, he could not specify the exact relationship of the minor-petitioner with Sandeep Kumar. He also could not satisfy the Court as to under what capacity the claimed guardian has been elevated to a legal status by the minor herself. The guardian having not been appointed by a competent Court under the Guardian and Wards Act or a being natural guardian, such a status qua Sandeep Kumar cannot be conferred by the minor herself. The Juvenile Justice (Care and Protection of Children) Act, 2015 stipulates conditions where a minor is being forcibly subjected to perform marriage contrary to her will and to incorporate that, it would be a case of a minor in need of care and protection of the state in terms of Section 2(14)(vii)(xii) of the Act which is reproduced as under:

Section 2(14)--"child in need of care and protection" means a child— (vii) who is missing or run away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed; or (xii) who is at imminent risk of marriage before attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnisation of such marriage;

4. Considering the above said circumstances and the fact that the aforesaid minor-petitioner has approached the Court which has to assume

the role of parents patriae with respect to a minor, it is desirable to direct as under:

1. The minor in this case happen to fall within the definition of child in need of care and protection as provided under section 2(14)(vii)(xii) of Juvenile Justice (Care and Protection of Children) Act, 2015. The Senior Superintendent of Police/Superintendent of Police of the respective district shall depute a Child Welfare Police Officer to produce the minor/child before the Committee constituted under the Juvenile Justice (Care and Protection of Children) Act 2015.

II. The respective Committee shall conduct an enquiry contemplated under Section 36 of the Juvenile Justice (Care and Protection of Children) Act 2015 and pass an appropriate order under section 37 of the said Act, by associating all the stakeholder, and to ensure that the objects of the Juvenile Justice (Care and Protection of Children) Act 2015 are well served.

III. The Child Welfare Committee shall take appropriate decision with respect to the boarding and lodging of the minor and also to conduct enquiry on all issues relating to and affecting safety and well-being of the child/minor.

IV. During the pendency of such adjudication and passing of orders as contemplated under Section 37 of the Juvenile Justice (Care and Protection of Children) Act 2015, the committee shall also take appropriate interim/decisions as regards placement of a child/custody of the child in need of care and protection.

V. The concerned SSPs/SPs shall also take appropriate steps as warranted by law against the threat perception to the minor as well as to her next friend, through whom the minor has approached this Court and to ensure that the respective petitioners are protected from any physical harm at the instance of the respondents in respective cases.

VI. The petitioners are directed to appear in the office of

SSP/SP of the respective Districts within a period of 03 days from receipt of this copy, failing which the concerned SSP/SP shall depute a Child Welfare Police Officer to produce the minor before the Child Welfare Committee within a period of 01 week thereafter.

VII. The Child Welfare Committee constituted under the Juvenile Justice (Care and Protection of Children) Act 2015, shall send a compliance report to this Court.

5. Registry of this Court is directed to send a copy of this order along with the petition and the Annexures to the concerned Commissioner of Police/Senior Superintendent of Police as well as to the Child Welfare Committee of the District concerned for necessary compliance.

6. A compliance report be furnished by the Child Welfare Committee to this Court within a period of two months from the receipt of certified copy of this order.

The petition is disposed of.

April 25, 2022
seema

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No