

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

CRWP-8480-2022

Date of decision : 05.09.2022

Navjot Kaur and another

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Kunal R Choksi, Advocate
for the petitioners.

Mr. Tarun Aggarwal, Sr.DAG, Punjab.

Mr. Lakhvir Kumar, Advocate
for respondent no. 6.

VIKAS BAHL, J. (ORAL)

The present Criminal Writ Petition has been filed under Articles 226/227 of the Constitution of India for directing the official respondents to protect the life and liberty of the petitioners.

It is the case of the petitioners that petitioner no.1 was born on 24.07.1996 as is apparent from her matriculation certificate and Aadhar Card (Annexure P-1 and P-3) and petitioner no.2 was born on 02.11.2001 as is apparent from his matriculation certificate and Aadhar Card (Annexure P-2 and P-4), and have married each other on 28.08.2022, with their free consent and without any pressure and that this is their first marriage. It is also stated by the learned counsel for the petitioners that detailed representation dated 29.08.2022 (Annexure P-7) has also been given to

respondent no.4-Senior Superintendent of Police, Fatehgarh Sahib, respectively, with regard to the same.

Notice of motion to respondents no.1 to 5 only.

Learned counsel appearing for respondent no.6 has stated that the age of petitioner no.2 is not 22 years but is 20 years and thus, petitioner no.2 is not of marriageable age and has stated that respondent no.6 has opposed to the marriage of petitioners.

Learned counsel for the petitioners, in rebuttal, has submitted that it has been inadvertently mentioned in the memo of parties that petitioner no.2 is about 22 years of age whereas his actual date of birth has been given in the petition as well as certificate and aadhar card and the same have also been annexed as Annexure P-2 and P-4 and as per the same, the date of birth of the petitioner no.2 is 02.11.2021 although, he is major but is not of marriageable age. Learned counsel for the petitioners has relied upon the judgment passed by the Coordinate Bench of this Court in case ***Jashanpreet Kaur and another Vs. State of Punjab and others***, reported as ***2019(4) RCR (Civil) 183***, in which case although, girl therein was aged about 15 years and 8 months and boy was aged about 19 years and 3 months, yet the Coordinate Bench after considering the provisions of Hindu Marriage Act, 1955, was pleased to protect the life and liberty of the petitioners therein. The relevant portions of the said judgment is reproduced hereinbelow:-

“1 to 5 xxx xxx

6. Facts, as pleaded in the petition, succinctly are that the petitioner No.1, a minor girl born on 04.10.2003 and petitioner No.2, a boy born on 10.03.2000, though a major, but not of

marriageable age, purportedly are in love with each other and got married on 17.06.2019 at Panchkula according to Hindu Rites and Ceremonies. Photographs of their marriage have been appended with the petition.

7 to 16. xxx xxx

17. The issue in hand, however, is not marriage of the petitioners, but the deprivation of fundamental right of seeking protection of life and liberty. I have no hesitation to hold that Constitutional Fundamental Right under Article 21 of Constitution of India stands on a much higher pedestal. Being sacrosanct under the Constitutional Scheme it must be protected, regardless of the solemnization of an invalid or void marriage or even the absence of any marriage between the parties.

18. It is the bounden duty of the State as per the Constitutional obligations casted upon it to protect the life and liberty of every citizen. Right to human life is to be treated on much higher pedestal, regardless of a citizen being minor or a major. The mere fact that the petitioners are not of marriageable age would not deprive them of their fundamental right as envisaged in Constitution of India, being citizens of India.

19. In view of the discussion above, the Senior Superintendent of Police, Batala is directed to verify the contents of the petition particularly the threat perception of the petitioners and thereafter provide necessary protection qua their life and liberty, if deemed fit.

20. It is clarified that this order shall neither be treated as a stamp of this Court qua marriage of the petitioners nor any reflection on the merits of the contentions raised by them in the present petition.

21. The writ petition is, accordingly, disposed of. ”

Learned counsel for the petitioners has submitted that the petitioners would be satisfied in case respondent No.4-Senior Superintendent of Police is directed to look into representation dated 29.08.2022 (Annexure P-7) and after seeing threat perception to the petitioners, takes appropriate action in accordance with law.

Mr. Tarun Aggarwal, Sr.DAG, Punjab, appears and accepts

notice on behalf of respondent nos.1 to 5 and on a specific query put by this Court, he has stated that he has no objection in case, respondent no.4-Senior Superintendent of Police, Fatehgarh Sahib, looks into the representation dated 28.08.2022 (Annexure P-7) and takes appropriate action in accordance with law.

After considering the above said facts and without commenting upon the legality of the marriage and expressing any opinion on merits of the case, the present Criminal Writ Petition is disposed of with a direction to respondent no.4- Senior Superintendent of Police, Fatehgarh Sahib, to look into the representation dated 29.08.2022 (Annexure P-7) and after considering the threat perception to the petitioners, respondent no.4 will take appropriate action in accordance with law.

It is, however, clarified that this order shall not debar the State from proceeding against the petitioners, if involved in any other case.

September 05, 2022.

Davinder Kumar

Whether speaking/reasoned:-

Whether reportable:-

**(VIKAS BAHL)
JUDGE**

Yes/No

Yes/No