

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-35439-2019

Date of Decision: 17.3.2023

Ankit Kumar

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Amandeep Saini, Advocate,
for the petitioner.

Mr. C.L.Pawar, Addl. AG, Punjab

KARAMJIT SINGH, J.

Instant petition under Section 482 of Cr.P.C has been filed by the petitioner seeking quashing of order dated 30.5.2018 (Annexure P-3) passed by learned Sessions Judge, Ropar and consequential FIR No.111 dated 6.6.2018 registered under Section 10 of Prohibition of Child Marriage Act, 2006 (Annexure P-4) at Police Station City Rupnagar, District Rupnagar along with subsequent proceedings arising thereof.

Brief facts are that the petitioner was having love affair with Sangeeta aged about 22 years and they got married on 3.5.2018 against the wishes of her parents. At the time of marriage, the petitioner was less than 21 years of age. The parents of Sangeeta were extending threats to the petitioner and his wife, on which, they filed protection petition before the learned Sessions Judge, Rupnagar and while dealing with the matter, the

said Court while taking into consideration the fact that the petitioner was less than 21 years of age at the time of solemnization of marriage, gave direction to SSP, Rupnagar to register FIR under Section 10 of Prohibition of Child Marriage Act against the petitioner vide order dated 30.5.2018 (Annexure P-3) and resultantly, FIR (Annexure P-4) was registered against the petitioner.

Being aggrieved, the petitioner has filed the present petition which is being contested by the State.

Counsel for the petitioner *inter alia* contends that the impugned order (Annexure P-3) and FIR (Annexure P-4) deserve to be set aside as in this case, the girl was aged about 22 years but the boy was less than 21 years of age at the time of their marriage and thus, the said marriage was voidable and not void and that too at the option of either of the spouse. He further submits that the petitioner and his wife-Sangeeta are presently living together happily and they never challenged their marriage under the provisions of Hindu Marriage Act; that in the given circumstances, the prosecution of the petitioner under Prohibition of Child Marriage Act would be abuse of the process of law only.

Counsel for the petitioner submits that under similar circumstances, this Court quashed FIR registered under Section 10 of Prohibition of Child Marriage Act against the boy in CRM-M-28381-2018 titled **Divyanshu Sharma v. State of Punjab and another** vide order dated 18.9.2018 (Annexure P-6).

On the other hand, State counsel, while filing reply by way of affidavit of Tarlochan Singh, DSP, Rupnagar, District Rupnagar, has

submitted that there is no illegality in the impugned order (Annexure P-3) and FIR (Annexure P-4) as at the time of solemnization of marriage, the petitioner had not attained the age of majority and was less than 21 years of age.

I have considered the submissions made by the counsel for the parties.

As per the petitioner, he performed the marriage with Sangeeta against the wishes of her parents on 3.5.2018 and at that time, the petitioner was less than 21 years of age but Sangeeta was aged about 22 years.

Counsel for the petitioner has also apprised the Court that the aforesaid marriage of the petitioner was voidable at the option of either of the spouse but none of them filed any petition under Hindu Marriage Act to get decree of divorce, the marriage being voidable. He has further apprised the Court that the petitioner and Sangeeta are presently living together happily.

In **Hardev Singh v. Harpreet Singh and others**; 2020 (1) RCR (Criminal) 238, Hon'ble Supreme Court held that male adults between the age of 18 to 21 years of age, who marry female adults cannot be brought under the ambit of Section 9 of Prohibition of Child Marriage Act.

Furthermore, in **Divyanshu Sharma's** case (supra) which has been relied upon by the counsel for the petitioner, under similar circumstances, direction given by the learned Sessions Judge concerned to register FIR under Section 10 of Prohibition of Child Marriage Act was quashed.

In view of above, the present petition deserves to be allowed and is hereby allowed and impugned order dated 30.5.2018 (Annexure P-3), FIR (Annexure P-4) and subsequent proceedings pursuant thereto are quashed.

(KARAMJIT SINGH)
JUDGE

March 17, 2023
Paritosh Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No