

CRWP-12363-2022
Date of Decision: 13.01.2023

State of Haryana and othersRespondents

Present: Mr. Afzal Hussain, Advocate, for the petitioners.
Mr. Kirpal Singh Thakur, Asstt. Advocate General, Haryana.
Mr. Khalid Tauru, Advocate, for respondents No.4 to 8.

The petitioners have approached this Court praying for issuance of direction to respondents No.2 and 3 to protect the life and liberty of the petitioners and to restrain the private respondents No.4 to 8 not to harass or interfere in the peaceful life of the petitioners.

This Court directed the State to file status report and the same has been filed by way of affidavit of Deputy Superintendent of Police, Punhana dated 11.01.2023.

Learned counsel for the petitioners has reiterated his contentions that both the petitioners have performed marriage as per Muslim Law. He has submitted that even if, petitioner No.1 is minor being less than 18 years, however, as per Muslim Law, it is the date of puberty, which is to be taken into consideration, hence, the marriage performed by both of them is legal and valid. He has submitted that both of them have performed marriage with their free will and petitioner No.1 is also pregnant as on date.

Learned State counsel has invited attention of this Court to the status report filed today, wherein, both the boy and girl are stated to have

appeared before the police and they were produced before the learned Magistrate for recording of their statements on 09.01.2023. The statement of petitioner No.1 was recorded wherein she deposed that she had fallen in love with Sahil and went with him with her own free will. She deposed that on 26.12.2022, both of them performed Nikah at Punhana and she is living with Sahil as on date. She further deposed that her Tau, namely, Tohid has threatened them to be killed. The medical report of petitioner No.1 is also placed on record confirming her pregnancy.

However, learned counsel for respondents No.4 to 8 has submitted that there is an FIR against Sahil of having kidnapped minor daughter of respondents No.4 and 5. He has submitted that petitioner No.1 should be sent to Nari Niketan.

Heard.

There is no denial to the fact that petitioner No.1 is less than 18 years of age, however, she was produced before the learned Magistrate alongwith Sahil and she deposed that she had performed Nikah with Sahil on 26.12.2022 and her Tau had threatened them to be killed. This Court cannot ignore the fact that the minor is pregnant as on date as confirmed from the medical report. As submitted by learned counsel for the petitioner, both of them are living at a safe place and the family of Sahil is also happy with the Nikah performed by them. Learned State counsel has submitted that as per instructions from ASI Ashok Kumar, both the petitioners are living at a safe place. This Court does not find it appropriate in this situation to send petitioner No.1 to Nari Niketan, as she is already pregnant.

Without entering upon an exercise to evaluate the evidentiary value of the documents placed on the file, I dispose of the petition with

directions to respondent No. 2-Superintendent of Police, Nuh (Mewat) to decide the representation of the petitioners, Annexure P-4 and grant them protection, if any threat to their life and liberty is perceived. It is made clear that this order shall not be taken to protect the petitioners from any legal action for violation of law if any committed by them. This order would not be understood having expressed any opinion whatsoever by this Court on the validity of the marriage of the petitioners.

13.01.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE
:
:
Yes/No
Yes/No