

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

125

CRWP-12424-2023 (O&M)
Date of decision: 22.12.2023

Prabhjeet Kaur and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Sahil Vashishat, Advocate for
Mr. Mohit Vashishat, Advocate for the petitioners.

VIKAS SURI, J.

1. This is a petition under Article 226 of the Constitution of India seeking protection of life and liberty of the petitioners.

2. The petitioners have pleaded that they are adults and have married each other on 17.12.2023 against the wishes of the private respondents. It is pleaded that petitioner No.1 (Prabhjeet Kaur) is 18 years of age and petitioner No.2 (Kunal Gill) is aged 19 years. In support of declared age of petitioner No.2, his Aadhaar card has been appended as Annexure P-1. The marriage certificate dated 17.12.2023 has been appended as Annexure P-2, a perusal of which shows that photographs of the petitioners are not affixed thereon nor their age has been mentioned therein and there is no material on record to corroborate the self declared age of petitioner No.1. It is not disputed that petitioner No.2 has yet not attained marriageable age. In support of the petition, respective affidavits

of the petitioners have been filed.

3. A coordinate Bench of this Court, in ***Sukhwinder Singh and another vs. State of Punjab and others***, 2020(3) Law Herald 2236, while considering a similar proposition wherein the petitioners had sought protection of their life and liberty alleging to have got married and one of the petitioners therein had not attained marriageable age, passed the following directions:-

- “i) All the Pujari/Pandit of Mandir, Molwi/Qazi of Masjid, Granthi of Gurudwara and Paadari of Girjaghar in the States of Punjab, Haryana and U.T. Chandigarh, will maintain a proper register of marriages, which maintain a counter-file of performing of a marriage.
- ii) In the Marriage Certificate, apart from photographs of the boy and girl, the description of the documents like Aadhar Card, Voter I.D. Card, Matriculation Certificate, Birth Certificate, etc., will be strictly mentioned and a photocopy of such document will be pasted on the backside of the counter file, so maintained by the Pujari/Pandit of Mandir, Molwi/Qazi of Masjid, Granthi of Gurudwara and Paadari of Girjaghar.
- iii) The affidavit of a person, who is deemed to be a minor will not be taken as a valid document of age, for the purpose of performing the marriage, unless either of the parent of such person appears and file his/her affidavit.
- iv) All the Pujari/Pandit of Mandir, Molwi/Qazi of Masjid, Granthi of Gurudwara and Paadari of Girjaghar in the States of Punjab, Haryana and U.T. Chandigarh, after every three months/quarters of year will produce their register with counter-file before the SHO having jurisdiction over the area where such Mandir, Masjid, Gurudwara and Girjaghar are situated and will be

returned back after an inspection is done by the concerned SHO for verification of age of the parties. Any violation of these directions by the SHO concerned will make him/her liable for disciplinary action.

- v) The SHO of the concerned area, where Mandir, Masjid, Gurudwara and Girjaghar are situated, on receiving a complaint regarding a child marriage, will immediately take action under the Prohibition of Child Marriage Act, 2006, against the accused.”

A copy of order whereby the aforesaid directions were issued was ordered to be sent to Director Generals of Police of Punjab and Haryana as well as Inspector General of Police, U.T. Chandigarh for further issuance of instructions to the SSP/SHO of all Districts.

4. It is worth noticing that as per Section 2(a) & (b) of the Prohibition of Child Marriage Act, 2006, a "child" means a person who, if a male, has not completed 21 years of age, and in case of a female, has not completed 18 years of age; and "child marriage" means a marriage to which either of the contracting parties is a child.

5. Further, Section 9 of the Prohibition of Child Marriage Act, 2006 provides that whoever, being a male adult above 18 years of age, contracts a child marriage shall be punishable with rigorous imprisonment which may extend to 02 years or with fine which may extend to one lakh rupees or with both.

6. Similarly, under Section 10 of the Prohibition of Child Marriage Act, 2006, it is provided that whoever “performs”, conducts or directs or abets any child marriage shall be punishable with rigorous imprisonment which may extend to two years and shall be liable to fine

which may extend to one lakh rupees unless he proves that he had reasons to believe that the marriage was not a child marriage.

7. In the case at hand, the petitioners claim on affidavit that they have married each other and the marriage was solemnized by Head Granthi Gurbhej Singh at Gurudwara Gobind Parkash, Sant Nagar, Chheharta, Amritsar, as depicted in the marriage certificate (Annexure P-2). Hence, keeping in view the above noticed provisions, petitioner No.2 and Head Granthi Gurbhej Singh, who performed the marriage of petitioner No.2 being a child have *prima facie* contravened the relevant provisions of the Prohibition of Child Marriage Act, 2006.

8. The respondent-State is directed to enquire into the factum of alleged marriage, the authenticity of the marriage certificate (Annexure P-2) and the age of the petitioners. In case complicity of any person is found, in *prima facie* acting contrary to any statutory provisions or the afore-noticed directions issued by this Court in ***Sukhwinder Singh's case*** (supra), appropriate action be taken in accordance with law.

9. Without examining the question of legality and validity of the marriage or expressing any opinion thereon, direction is issued to respondent No. 2 – Commissioner of Police, Amritsar, to look into the grievance set out in the petition in the light of the representation (Annexure P-3) and take appropriate action for protection of their lives and liberty as may be warranted by the circumstances.

10. It is clarified that this order shall not be taken to validate the alleged marriage and in case any criminal case has been/is registered against the petitioners, nothing in this order shall be construed as a bar for

taking appropriate action by the police authorities in respect thereof, in accordance with law.

11. Since the alleged marriage of the petitioners was performed at Amritsar, the Registry is directed to communicate this order to the Commissioner of Police, Amritsar for further transmission to the concerned SHO, at the earliest.

12. Disposed of.

December 22, 2023
sumit.k

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes / No

Whether Reportable : Yes / No