



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRWP-7031-2024

Date of Decision: 25.07.2024

ANCHAL AND ANOTHER

...Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present:- Mr. Parvesh Sachdeva, Advocate
for the petitioners.

KIRTI SINGH, J.(Oral)

This petition filed under Article 226 of the Constitution is for seeking directions to the official respondents No.2 & 3 to protect the life and liberty of the petitioners from the hands of private respondents No.4 to 7 as they have solemnized marriage against the wishes of the family members.

2. Learned counsel for the petitioners submits that they are MAJOR and have married each other on 16.07.2024 against the wishes of the private respondents No.4 to 7. It is pleaded that petitioner No.1 (Anchal) is 18 years of age and petitioner No.2 (Vikram) is aged 19 years. They have placed on record the marriage certificate (Annexure P-3) and copy of the Aadhar cards (Annexures P-1 and P-2) to substantiate their claim. 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 Parbhari Charanjit, Kaali Mata Dukh Nivaran Dera, Fazilka (Punjab), as depicted in the marriage certificate (Annexure P-3). Hence, keeping in view the above noticed provisions, petitioner No.2 and Parbhari Charanjit, 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-3) 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. In view of the same, it goes without saying that the protection of life and liberty is a fundamental right emanating out of Article 21 of the Constitution of India and the scope of the present petition is only regarding protection of life and liberty of the petitioners.

10. Without commenting on the validity of the marriage allegedly performed by the petitioners and entering upon an exercise to evaluate the evidentiary value of the documents placed on the file, I dispose of this petition with direction to respondent No.2 to decide the representation dated 18.07.2024 of the petitioners (Annexure P-5) within a period of one week



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protection, if there is any threat to their life and liberty.

11. 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.

12. Since the alleged marriage of the petitioners was performed at Fazilka, the Registry is directed to communicate this order to the Senior Superintendent of Police, Fazilka for further transmission to the concerned SHO, at the earliest.

13. Disposed of.

(KIRTI SINGH)
JUDGE

25.07.2024
Kavita Nain

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