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COCP-3053-2023

NIRMAL SINGH VS SARABJIT SINGH, SHO

Present:- Mr. Sham Lal Saha, Advocate
and Mr. Rajender Kumar, Advocate
for the petitioner.

Mr. Vikram Sheoran, Advocate
for Monu Kaushik (Pandit).

On 03.10.2023, the following order was passed by this

Court:-

*“The present petition has been filed by petitioner-
father of who along with one
had filed CRWP-8294- 2023 before this Court
for the protection of their life and liberty on the ground that
they have performed marriage on 20.08.2023. The said
petition was disposed of on 23.08.2023 with certain
directions.*

*Learned counsel for the petitioner submits that
directions contained in paragraph Nos. 7 to 11 of the order
dated 23.08.2023 are being violated, which read as
under :-*

*“7. Learned counsel for the petitioners to direct the
petitioners to attend the phone call(s) of the Investigator. As
far as the petitioner No.1 is concerned, who as per her
parents is as soon as the Investigator contacts her, he shall
produce her to the nearest Judicial Magistrate and in case
the time is not suitable immediately before a Child
Protection Home and after that produce her before the
concerned Judicial Magistrate. The concerned Judicial
Magistrate shall interact with her and it is the concerned
Magistrate's discretion whether to record her statement
under Section 164 Cr.PC or to proceed without that. It is
clarified that it shall be permissible for parents of
petitioner No.1 to interact with their daughter for 15
minutes when the girl is produced before the Magistrate for
recording of the statement, in the presence of female police
official.*

*8. If the version of respondent No.4 (father of
petitioner No.1) found correct after verification by the
concerned Magistrate in that case, learned Judicial
Magistrate will either send the minor to Child Protection*



Home and to her parents as per the result of the interaction with her. The identity of the place where petitioners are staying shall not be revealed to the private respondents.

9. It is made clear that in case, petitioner No.1 found to be minor, her custody shall NOT be handed over the adult petitioner. It is clarified that there is no adjudication on merits. It is also clarified that this order is not a blanket bail in any FIR for the petitioners. It is further clarified that this order shall not come in the way if the interrogation of petitioner No.2 is required in any cognizable case. It shall also be open for petitioner No.2 to approach this Court again in case of any fresh threat perception.

10. This order shall eclipse after fifteen days from today.

11. There would be no need for a certified copy of this order, and any Advocate for the Petitioner and State can download this order and other relevant particulars from the official web page of this court and attest it to be a true copy. The concerned officer can also verify its authenticity and may download and use the downloaded copy for immediate use.”

Since certain facts were required to be clarified, the case file of CRWP-8294-2023 is summoned. A perusal of the record of CRWP-8294-2023 shows that petitioner No. 1 therein-
 daughter of the present petitioner, has declared herself to be aged about 21 years as per her Aadhaar Card No.4692-6559-5079 and petitioner No.2 with who she has performed marriage, has declared his age as 27 years as per his Aadhaar Card No.4405-5668-3043. The present petitioner and his family members were impleaded as private respondents No.4 to 6. A perusal of the affidavit attached with the said petition shows that
 has deposed on oath in the affidavit which is attested on 21.08.2023 that age of
 i is 21 years. The copy of the Aadhar Card attached with the petition shows that the date of birth of
 is 07.08.2002, whereas vernacular copy of the same Aadhar Card reflects only the year of birth of
 , not any specific date, therefore, Annexure P-1, showing the date of birth of
 as 07.08.2002, is not the true translation of her Aadhar Card.

The marriage is allegedly registered by one Monu Sharma of Prachin Pashupati Nath Shiv Mandir Society, MDC, Sector 4, Panchkula, wherein the date of birth of Oma Singh is recorded as 15.01.1996.



On the face of it, the entire petition (CRWP-8249-2023) was filed concealing the correct facts as the present petitioner, being father of _____, has shown her date of birth as 08.02.2007 as per her birth certificate, i.e. less than the marriageable age of 18 years. Copy of the same is taken on record as Mark 'A.'

Learned counsel for the petitioner further submits that despite directions dated 23.08.2023, he was not permitted to meet his daughter and she has not been produced before the Judicial Magistrate.

Notice of motion for 05.10.2023.

The Senior Superintendent of Police, Gurdaspur as well as SHO, Police Station Bhaini Mian Khan, District Gurdaspur are directed to look into the matter and submit report to this Court.

The SHO, Police Station Bhaini Mian Khan, District Gurdaspur is further directed to produce Ajan Devi and Oma Singh along with a Lady Constable before the Mediation and Conciliation Centre of this Court on the next date of hearing, where petitioner Nirmal Singh will have a meeting with his daughter.

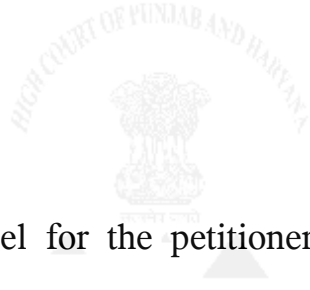
In the meantime, SHO of the Police Station having jurisdiction over Sector-4 MDC is directed to produce aforesaid Monu Sharma before this Court on the next date of hearing at 10:00 AM along with the record register of marriages being performed at the said Temple.

To be shown in the urgent list.

The Registry is directed to tag the case file of CRWP-8294-2023 along with the present case."

In pursuance to the aforementioned order, the SHO Sarabjit Singh and Lady Head Constable Gurmit Kaur No.860, Police Station Bhaini Mian Khan, District Gurdaspur, have produced the girl _____

today in the Court and she was sent to the Mediation and Conciliation Centre of this Court for arranging a meeting with her father, where she appeared and met with her father _____ in the presence of Mediator and the Mediator has got recorded the statement of her father _____, in which he has stated that his daughter wants to stay with _____



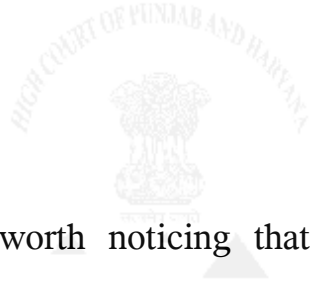
Counsel for the petitioner has submitted that as per the certificates i.e. Birth Certificate, the date of birth of the petitioner is 08.02.2007 and even in the Aadhar Card, the same date of birth is reflected.

Reliance is placed upon a certificate issued by the Headmaster, Government High School, Mullanwal, Gurdaspur dated 30.08.2023 wherein the date of birth of the petitioner as per the government school record is also shown as 08.02.2007.

On the face of it, both these documents appear to be genuine documents and the Aadhar Card relied upon by the petitioners in CRWP No.8294 of 2023 is a false document much less not to comment about the person, who has made the translation wherein the date of birth is shown as 07.08.2002, and the same is not a correct translation of Aadhar Card (Annexure P-1 attached with the said petition).

Even, the Pandit, who has brought the record nowhere reflects the date of birth of _____ in his record and it appears that without verification of any document, he has performed the alleged marriage just to take his fee.

Affidavit on behalf of the Deputy Superintendent of Police, Gurdaspur (Rural), in compliance of the order dated 03.10.2023, has been filed in the Court today, which is taken on record, wherein it is stated that the enquiry has been conducted and as per the birth certificate, the age of the girl is 08.02.2007 and action is being taken against the Pandit, in accordance with law as she was of tender age.



It is worth noticing that in CRWP No.6912 of 2020, decided on 25.09.2020, certain directions have been issued, which reads as under:-

*“After hearing the counsel for the parties, this petition deserves to be **dismissed**, with 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.

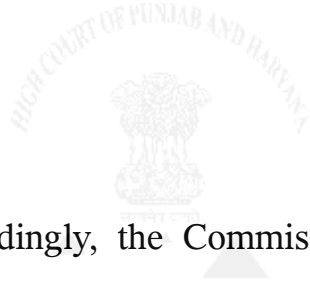
v) The SHO of the concerned area, where Mandir, Masjid, Gurudwara and Girjaghar are situated, on receiving a complaint regarding a child marriage, will immediately take action under the Prohibition of Child Marriage Act, 2006, against the accused.

Since the alleged marriage of the petitioners was performed within the jurisdiction of SHO, Police Station Mansa Devi Complex, Sector 4, Panchkula, the Registry is directed to communicate this order to the concerned SHO, at the earliest, for taking appropriate action against the accused, under the Prohibition of Child Marriage Act, 2006.

Disposed of accordingly.

A copy of order 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.”

On the face of it, the Pandit, who has performed the marriage has failed to comply with the aforesaid directions and the record shown by him reflects that there is no seal of SHO of the local area regarding verification of the same periodically to find out whether any child marriage is performed or not.



Accordingly, the Commissioner of Police, Panchkula, is also directed to look into the matter with regard to performance of the alleged marriage of a girl, which is prohibited under the Prohibition of Child Marriage Act, 2006.

List again on 15.12.2023.

In the meantime, afresh compliance affidavit be filed in the Registry with copy in advance to counsel opposite.

The SHO Sarabjit Singh and Lady Head Constable Gurmit Kaur, are directed to take back the girl child namely _____ and drop her at the residence of the present petitioner – Nirmal Singh (father of Ajan Devi), in terms of the aforementioned directions.

A copy of this order be supplied to SHO Sarabjit Singh or Lady Head Constable Gurmit Kaur, under the signatures of Special Secretary, attached to this Bench.

(ARVIND SINGH SANGWAN)
JUDGE

05.10.2023

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