
(2008) 06 P&H CK 0006

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Writ Petition No. 555 of 2008 and Criminal Miscellaneous No"s. 15558-M to 15564-M and 15566-M of 2008

Ashok Kumar

APPELLANT

Vs

State

RESPONDENT

Date of Decision: June 23, 2008

Citation: (2008) 06 P&H CK 0006

Hon'ble Judges: Kanwaljit Singh Ahluwalia, J

Bench: Single Bench

Judgement

Kanwaljit Singh Ahluwalia, J.

In summer vacations, I am holding the court to decide anticipatory bail applications and the habeas corpus petitions. Out of 26 matters listed for today before me, 10 matters pertain to marriage between young persons aged more than 18 to 21 years. In most of the petitions, boys and girls, who are newly married couples, are present in the court intend to take up all the petitions by one-order.

2. Criminal Writ Petition No. 555 of 2008 has been filed by Ashok Kumar praying that his wife Mala Kumari has been taken away by her parents- respondent Nos. 1 and 2 and brother-respondent No. 3. He seeks production of his wife Mala Kumari.

3. Criminal Misc. No. 15558-M of 2008 has been preferred jointly by Amandeep Kaur and Rajesh Kumar. Amandeep Kaur is present in the court. She states that her father is agriculturist holding more than 15 acres of land and they are three sisters. She states that she is 18 years old. Photographs of marriage (Annexure P3) have been also attached. Annexure P1 is birth certificate of Amandeep Kaur. Amandeep Kaur was born on 22.04.1990. Rajesh Kumar has relied upon Identity Card issued by Election Commission of India and has stated that his age is 21 years and as per the identity card, which was issued on 22.11.2006, his age was then 19 years. Amandeep Kaur and Rajesh Kumar both are present in the court and they have stated that they have performed their marriage.

4. Criminal Misc. No. 15559-M of 2008 has been preferred by Anjali Bajaj and Aman Rohilla. Anjali Bajaj is present in the court and states that she is a student of B.Sc. 2nd year in Kurukshetra University and her age is 21 years. She has relied upon Ration Card (Annexure P1) to state that she was aged 17 years when Ration Card was issued in the year 2005. Petitioner No. 2-Aman Rohilla also relied upon Ration Card, in which his age has been given 16 years and this Ration Card has been issued, as per the counsel, earlier, and now he is more than 22 years. Reliance has also been placed upon Annexure P3 (Matriculation Certificate of Anjali Bajaj), wherein her date of birth has been recorded as 18th January, 1989. Aman Rohilla has also relied upon the Matriculation Certificate, in which his date of birth has been given as 27th October, 1986. They have also relied upon photographs (Annexure P6) to show that they have performed their marriage. They have also relied upon marriage certificate issued by Vedic Hindu Sabha, Ghaziabad.

5. Criminal Misc. No. 15560-M of 2008 has been preferred by Mandeep Kaur and Rajesh Kumar. Both Mandeep Kaur and Rajesh Kumar are present in the court. Man-deep Kaur states that she is 18 years old. She has stated that her father is a Doctor and runs a private Clinic. She has stated that they are three brothers and sisters. She has stated that she has passed Matriculation. Rajesh Kumar has stated that he is aged above 25 years. He has stated that he has passed 10+2 examination. They have relied upon the photographs of the marriage (Annexure P1). Mandeep Kaur has also placed on record Annexure P2 (Marriage Certificate) issued by Gurudwara Sahid Bibi Sundri, District Gurdaspur. She has also relied upon Matriculation Certificate (Annexure P2), wherein her date of birth recorded is 10th April, 1990. Rajesh Kumar also relied upon Matriculation Certificate (Annexure P4), where it was stated that he was born on 12th February, 1983.

6. Criminal Misc. No. 15561 -M of 2008 has been preferred by Deepak and Amanpreet. Mr.Sandeep Arora, Advocate for the petitioners states that when both Deepak and Amanpreet made an attempt to enter the court premises their parents along with other musclemen, who are present outside the court, obstructed them and they are hiding. Mr.Sandeep Arora has relied upon Annexure P1 (Matriculation Certificate of Deepak), wherein it has been stated that he was born on 6th January, 1986. Therefore, he is aged more than 21 years, Amanpreet has also relied upon certificate issued by Indian School Certificate Examinations, New Delhi, wherein her date of birth is mentioned as 18th September, 1989. Thus, she is about 19 years. They have also relied upon photographs (Annexures P3 to P6), which shows that they have been legally married. They have also relied upon Annexure P7 (Marriage Certificate) issued by Pracheen Guga Mari Rama Krishna Mandir, Sector 19-D, Chandigarh.

7. Criminal Misc. No. 15562-M of 2008 has been preferred by Bhagyashri Sunil Pawar and Varun Kumar. Bhagyashri Sunil Pawar is present in the court and states that she is 18 years old. She has stated that she has passed 10+2 examination. She states that she has an elder sister. She has stated- that she has married Petitioner No. 2 according to her own free will. Annexure P1 is the Statement of Marks issued by Indian School Certificate Examinations, New Delhi, wherein date of birth of Bhagyashri Sunil Pawar is

mentioned as 13th May, 1990. She has just crossed 18 years. Annexure P2 is Matriculation Certificate of Petitioner No. 2, wherein her date of birth is examined as 19th August, 1983. They have relied upon Marriage Certificate.(Annexure P3). They have performed their marriage at Nasik. They have also relied upon photographs (Annexures-P4 to P6) to show that their marriage has been solemnized.

8. Criminal Misc. No. 15563-M of 2008 has been preferred by Suman and Mahinder Singh. Suman is present in the court and states that she is aged 20 years. She has further stated that she has three brothers and sisters. She has stated that her father is an agriculturist. She has stated that she has married with her own free will without any duress or coercion. Annexure P1 is the Certificate of Marriage issued by Manav Sanskar Jagriti Mission, Chandigarh, Sector 22. Chandigarh. Annexure P2 are the photographs of marriage. Annexure P3 is the affidavit of Suman stating therein that she had married according to her own free will. They have not attached any document to prove their age. However, they have orally stated that they are more than 20 years.

9. Criminal Misc. No. 15564-M of 2008 has been preferred by Aanchal Gupta and Vinay Kumar Nishad. Aanchal Gupta is present in the, court. She has very confidently stated that she will be 19 years old in November, 2008. She has stated that she has a younger sister. She has stated that her father has expired and her mother has remarried with a person, who is a Doctor. Annexure P-1 is the Certificate issued by Central Board of Secondary Education, in which, her date of birth has been mentioned as 10th November, 1989. Annexure P2 is a certificate issued by Central Board of Secondary Education to Vinay Kumar Nishad and his date of birth is mentioned as 1 st August, 1985. Annexure P-3 are the photographs of marriage. Annexure P4 is the Marriage Certificate.

10. Criminal Misc. No. 15566-M of 2008 has been preferred by Chand Aara and Intyaj Mohamad. Petitioner No. 1 is present in the court and states that she has performed her marriage according to her own free will. She has stated that she is 22 years old. Annexure P1 is the Nikahnama (Marriage Certificate). Annexure P2 is the Agreement of Marriage accompanied by Photographs of marriage. They have also relied upon Ration Card (Annexure P3) and School Certificate (Annexure P4) to prove their age.

11. All the petitioners before me have stated that they have performed love marriage. In vacations, two benches are hearing urgent matters. Out of 50 matters, about 18 matters pertain to marriage. Scene is no different on other days, when the court is functioning and deciding the cases regularly. It is a fact that from the last 4-5 years, this Court is flooded with the petitions, where married couples come and seek protection. Times have changed, but the response of the State has not changed.

12. have before me number of young married persons, who struck by cupid's arrow, have exchanged vows of marriage and promises to each other to live together, are running from pillar to post, chased by the musclemen or police.

13. The law permit these young couples, who have eligibility of age on their side, to start their matrimonial lives and perform their marriage.

14. Marriage is a solemn affair. If the young couples to protect their marriage, which is sacred, by going to the chambers of the Advocates and at very young impressionable age, are confronted by Clerks of the Advocates and staff of the Court, it is not a good beginning. Couples hiding themselves in corridors of the Court, chased by relations, accompanied by musclemen armed with weapons is not the answer which they seek by performing marriage. Society has to insulate these couples.

15. When the arrears of cases are mounting, the High Court is flooded with the petitions, where number of Judges of this Court have to answer the right of life and liberty to the newly married couples. State is a mute spectator. When shall State awake from its slumber, till how long State shall allude permanent solution and till how long Courts can provide solace and balm by disposing such cases are questions which are a begging answers.

16. I had a case before me today, (Criminal Writ Petition No. 546 of 2008 taken up separately) where Sulphas tablets have been recovered from the couple and according to the State Counsel, they had made the suicide pact.

17. In the present times, world has become a global village. We have television channels of the whole world on the remote control of the children, who have attained maturity or are near the age of maturity who are conscious about their rights, who want to write their own destiny, yet orientation of the society is medieval.

18. The recent pronouncement of the Hon"ble Apex Court that each marriage should be registered was one answer to these young couples. State has made no provisions and has provided no machinery or regulation to facilitate instant hassle free registration of marriage. Often, cases of rape, abduction are registered against the boy. Parents and relations chase policemen wanting their daughter back in their home. A number of cases of honour killing have also been reported. A Division Bench of this Court in Criminal Appeal popularly known as NR1 Jassi murder case has dealt with issue of honour killing prevailing in this part of continent i.e. India and Pakistan and the judgment is a fine essay on the magnitude of the problem.

19. These are cases, where the marriage is inter-caste or is between different religions. Parents who have brought up their child with their hard work and toil, are seen roaming in the Courts sobbing, agitated and angry. They present pathetic and miserable scene.

20. Time has come for State to speedily, evolve compassionate mechanism to redress the grievances of the young couples and their parents. Happy family life, social harmony, amicable and cordial neighborhood, should be concern of State and Society. Courts alone cannot change mindset. In last five years, thousands of petitions have been filed. Orders have been passed by the courts but, the State has failed to cure this malady.

21. Notice of motion be issued in all these cases to the State of Haryana, Punjab and Home Secretary. UT, Chandigarh. Home Secretary of all the three States to file an affidavit as to what mechanism they intend to evolve in response to the situation, which has been narrated in this order. Till then, concerned SSP shall provide protection to the couples, who are present in the court.

22. Cases to come up for further hearing on 27th June. 2008. Copy of the order be given under the signatures of Court Secretary to the counsel for the State of Punjab, Haryana and U.T., Chandigarh to transmit order to concerned quarters for compliance.

23. Copy of the order be also given under the signatures of Court Secretary to Learned Counsel for the petitioners.