

(2014) 03 P&H CK 0236

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 5226 of 2014

Mandeep Kaur Rai

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: March 21, 2014

Citation: (2014) 175 PLR 317

Hon'ble Judges: Ritu Bahri, J

Bench: Single Bench

Advocate: Mandeep Kumar Dhot, Advocate for the Appellant

Final Decision: Disposed Off

Judgement

Ritu Bahri, J.

Notice of motion.

On the asking of the Court, Mr. Rupam Aggarwal, DAG, Punjab, accepts notice on behalf of the respondent-State.

Challenge in this petition is to the order dated 10.03.2014 (Annexure P-4) passed by Naib Tehsildar-cum-Marriage Registrar, Malerkotla-respondent No. 3, whereby he has refused to register the marriage of the petitioners. The petitioners are further seeking direction to respondent Nos. 2 and 3 to register their marriage and issue a marriage certificate.

2. The petitioners are major as the date of birth of petitioner No. 1 is 02.07.1985 and petitioner No. 2 is 20.07.1972. Copies of their passports, in this regard, have been attached as Annexure-P-1 and P-2 respectively. The petitioners have solemnized their marriage on 07.09.2002 with the consent of their parents at village Jargri, Tehsil Payal, District Ludhiana. Out of this wedlock, a child namely Sukhraj Singh Rai was born on 10.08.2003 (Annexure P-3). Now the petitioners are planning to go abroad for the betterment of their future. Therefore, they made an application dated 05.03.2014 to respondent No. 3 for registration of their marriage along with requisite documents, but he refused to register their marriage on the pretext that

petitioner No. 1 was minor at the time when the marriage was solemnized.

3. As per Rule 5 and 6 of the Hindu Marriage (Punjab) Registration Rules, 1960, after solemnization of the marriage there is no requirement that the parents should be present at the time of registration of the marriage as they are major.

4. At this point of time, learned counsel for the petitioner has made reference to a judgment passed by this Court in Mandeep Kaur and another v. State of Punjab and others, CWP No. 7163 of 2013, decided on 08.04.2013, wherein a direction had been issued to the respondents to register the marriage of the petitioners. In the said case, reference had been made to the judgment passed by Hon"ble the Supreme Court in [Smt. Seema Vs. Ashwani Kumar](#),

5. In Seema's case (supra), Hon"ble the Supreme Court has issued comprehensive directions to all the States and Central Government to take necessary steps for making registration of marriages of persons belonging to all religions as a compulsory step. For the purposes, relevant portion of the judgment is reproduced as under:-

i) The procedure for registration should be notified by respective States within three months from today. This can be done by amending the existing rules, if any, or by framing new rules. However, objections from members of the public shall be invited before bringing the said rules into force. In this connection, due publicity shall be given by the States and the matter shall be kept open for objections for a period of one month from the date of advertisement inviting objections. On the expiry of the said period, the State shall issue appropriate notification bringing the rules into force.

ii) The officer appointed under the said rules of the States shall be duly authorised to register the marriages. The age, marital status (unmarried, divorce) shall be clearly stated. The consequence of non-registration of marriages or for filing false declaration shall also be provided for in the said rules. Needless to add that the object of the said rules shall be to carry out the directions of this Court.

iii) As and when the Central Government enacts a comprehensive statute, the same shall be placed before this Court for scrutiny.

iv) Learned counsel for various States and Union Territories shall ensure that the directions given herein are carried out immediately.

6. The object of issuing such directions was for the benefit of the society at large, where marriages are performed without parental consent. To obviate such unwarranted situations, directions are issued to be strictly adhered to. The reasoning adopted by the respondents that presence of parents is must for registration of marriage would defeat the very object of the directions issued by the Hon"ble Supreme Court.

7. This Court in Aarti Singh v. Chief Registrar under Registration of Marriage Act, Haryana, Chandigarh and others, CWP No. 2480 of 2011, has observed as under:-

Adults, who marry on their own accord with or without the consent of parents, cannot be made to run from pillar to post and it is the duty of the State to make the registration machinery move fast with sufficient unctio to secure registrations without any stumbling block. I cannot take an averment in the petition that the Registering Officer requires a concurrence of the parents as a statement made only for the purpose of the petition. There is hardly a reason for the petitioners to make such a statement, unless it was true. It would mean serious dereliction of duty if Registering Officers draw their feet when young couples arrive with bated breath to seal their marriages to safety but obstructed by corrupt or inept officials at the registration department.

In the light of the above discussion, this petition is disposed of by giving a direction to respondent Nos. 2 and 3 to register the marriage of the petitioners in accordance with law.