

Aaftab and another

vs.

State of Haryana and others.

Present: Mr. Vishal Khatri, Advocate,
for the petitioners.

Mr. Munish Sharma, AAG, Haryana.

Case heard via video conference.

On 29.06.2021, the following order had been passed:-

“Case heard by video conferencing.

By this petition, the petitioners seek protection of life and liberty at the hands of respondents no.4 and 5, i.e. the father and brother respectively, of petitioner no.2, with the petitioners stated to be in a live-in relationship with each other.

There being no firm proof of age of either of the petitioners on record other than the copies of their Aadhar Cards, with an Aadhar Card not being firm proof of age as no firm proof of age is asked for at the time of issuance of such cards, notice of motion is issued, with Mr. Munish Sharma, AAG, Haryana, accepting notice at the asking of the court on behalf of respondents no.1 to 3, he already having received a copy of the petition.

A gazetted officer is directed to file a reply to the petition after determining the age of petitioner no.2 from the school that she last studied in, seemingly at village Mauli Jagran, UT, Chandigarh, as that is shown to be the address of her father (respondent no.4).

Protection of life being a basic fundamental right enshrined in Article 21 of the Constitution of India, obviously such life and liberty shall be protected by respondents no.1 to 3.

It is made clear that if petitioner no.2 is found to be below the age of 18 years, this order shall not prohibit any proceedings as per law against petitioner no.1, with admittedly no marriage having been performed between the parties.

Adjourned to 07.07.2021.”

WWW.LIVELAW.IN

Pursuant thereto an affidavit dated 14.07.2021 has been filed by the ACP, Panchkula, on behalf of the respondent State, stating therein that as per verification carried out from the schools that the petitioners last attended, they are both found to be above 18 years of age, with petitioner no.1 being about 3 months short of the age 21 and petitioner no.2 being slightly short of 19 years of age.

That being so, with the age of majority being 18 years of age as per the Indian Majority Act, 1875, obviously the petitioners have to be considered to be adults (whether mentally so or not is a separate issue altogether), and therefore, if they have chosen to live together and have at least not admitted any marriage between them, there would therefore be no question of invocation of the provisions of the Prohibition of Child Marriage Act, 2006. Consequently, there remains nothing to be done by this court except to issue directions to respondents no.2 and 3 to continue to ensure that the life and liberty of the petitioners are protected.

However, this court finds it necessary to issue notice to the Union of India and the States of Punjab and Haryana as also the UT, Chandigarh, to go into the issue as to whether the age of majority needs to be revised or not, the Indian Majority Act, 1875, being an Act enacted more than 150 years ago; and with teenagers now, normally still being students even sometimes well into their 20s, whereas that was not usually the position at the time when the said Act was enacted.

WWW.LIVELAW.IN

Consequently, the Union of India through the Home Secretary, Government of India, the State of Punjab through the Addl.Chief Secretary, Home, as also the UT, Chandigarh, through the Home Secretary, Chandigarh Administration, are ordered to be impleaded as respondents no.6 to 8, with notice to be issued to all the added respondents, returnable on 29.10.2021.

An affidavit be filed by the Home Secretary/Addl.Chief Secretary concerned, as to whether there is any proposal for tabling any amendment as regards an upward revision in the age of majority.

It is of course to be observed that it is something which is wholly in the domain of the legislature, but since these kind of cases are on the rise these days, it is considered necessary to at least obtain the response of the Governments concerned.

July 23, 2021

dharamvir/

सत्यमेव जयते (AMOL RATTAN SINGH)
JUDGE