
(2014) 11 MAD CK 0273
In the Madras High Court
Case No : Writ Petition No. 28973 of 2014

K.K. Ramesh

APPELLANT

Vs

The Government of India

RESPONDENT

Date of Decision : 06-11-2014

Acts Referred:

Citation : (2014) 11 MAD CK 0273

Hon'ble Judges : Sanjay Kishan Kaul, C.J;M. Sathyanarayanan, J

Bench : Division Bench

Judgement

Sanjay Kishan Kaul, C.J.—We are not inclined to entertain this Public Interest Litigation, for the reason that the issue is of legislative exercise having social ramifications and it is for the Government to examine this issue.

2. Moreover, a Division Bench of Madurai Bench of this Court, in H.C.P.No. 1039 of 2014 (between R.Thiagarajan and Superintendent of Police, Trichy District), has already passed orders on 03.09.2014, making suggestions to the Government to be considered. The relevant observations are as under:

"12. For a male, age for marriage is fixed as 21 years. For a girl, it is 18 years. Till 17 years, children, both boys and girls, grow in school atmosphere, although they may have elders at home and surroundings. At the age of 18 years, a girl would be in the 2nd year of graduation. Unemployment is alarming in this Country and even qualified persons do not get suitable employment. When Hindu Law prescribes 21 years as marriageable age for the male, whether it could be said that the girl would acquire social, psychological maturity, on attaining the age of 18 years. Capacity to drive a motor vehicle, decision to vote, eligibility to travel by obtaining travel documents, minimum age to secure employment, which are illustrative, whether all that could be equated to mental maturity for marriage of a girl, when comparatively a higher age is prescribed for a male ? Not to state about the problems, which a young girl faces after marriage, if not supported. In Lata Singh Vs. State of U.P. and Another, , the Hon"ble Supreme Court held that once a person becomes a major, (i.e.) attained 18 years of age,

he/she can marry, whosoever he/she likes. We are aware that the decision of the Apex Court is binding on us. Yet we are of the humble opinion that realities have to be addressed.

13. In these type of cases, education a determinative factor, for development, is disrupted. Legislations and religions are involved. But having regard to a serious question posed by one of the parents, as to their right over their children on marriage, and when we look at the provisions of the Indian Majority Act, 1875, Guardians and Wards Act, 1890, Child Marriage Restraint Act, 1929, we are of the humble opinion, the issue has to be addressed.

14. Whether the age of the girl has to be increased to 21, equal to the age of the male or to fix a lesser age for the girl, above 18 years, and declare the marriage between the male above 21 years and a girl less than 18 years, the marriage of the body below 21 years with that of the girl, above 18 years, as void, non-est in law, instead of making it voidable, at the instance of the person, who has attained the marriageable age, in particular, a minor girl, on attainment of majority, has to be addressed, having regard to the mental and psychological maturity."

3. In view of the aforesaid, writ petition stands dismissed. No costs.