
(2014) 06 UK CK 0026
In the Uttarakhand High Court
Case No : WPCRL Nos. 568 and 648/2014

Parvati Devi

APPELLANT

Vs

State of Uttarakhand

RESPONDENT

Date of Decision : 17-06-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 363

Citation : (2014) 2 NCC 189

Hon'ble Judges : Servesesh Kumar Gupta, J

Bench : Single Bench

Advocate : Piyush Garg and S.K. Shandilya, Advocate for the Appellant; R.K. Sah, Dy. Advocate Gen, Advocate for the Respondent

Judgement

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Servesesh Kumar Gupta, J.—Having heard on the urgency application No. 2250/2014 moved in writ petition No. 568/2014, it is hereby allowed. Both the writ petitions WPCRL No. 648/2014 and WPCRL No. 568/2014 are inter-connected to each other, hence are being adjudicated together. The controversy is regarding the girl Km. Pinki, who by her own sweet will has married to Mr. Vikas Kumar, one of the petitioner in the above titled petition. The mother of Km. Pinki, Smt. Parvati Devi lodged the F.I.R. on dated 12.04.2014 with the allegations that Km. Pinki is a minor and her date of birth is 10.09.1997 and she has been eloped from the residence on 02.04.2014. Km. Pinki has been taken away by her neighbour Mr. Vikas Kumar, hence filed this writ petition before the Court, seeking direction to the concerned SHO for recovery of Km. Pinki.

2. On the other hand, Mr. Vikas Kumar filed another petition for quashing the F.I.R. lodged by Smt. Parvati Devi as aforementioned.

3. Having heard the arguments for and against, it was contended that the date of birth of Km. Pinki is 10.09.1997, hence on the date of occurrence i.e. 02.04.2014, she was 5 months less than 17 years.

4. Learned counsel for the petitioner Parvati Devi has shown a number of papers namely Scholar Register/Transfer Certificate Form of a school, where Km. Pinki pursued her education to 8 standard. Her date of birth is mentioned 10.09.1997 and the same date of birth is also mentioned in the mark sheet of 9th standard of Km. Pinki and the same date of birth is also revealed in the High School Examination Certificate. Learned counsel for the petitioner Vikas Kumar has produced the Scholar Register/Transfer Certificate Form of Km. Pinki issued by Basic Education School namely Khushi Bal Niketan Junior High School, Khadkhadi, Haridwar wherein the date of birth of Km. Pinki has been shown to be 15.09.1995 and if this certificate is believed then her date of birth is almost 5 months less to 19 years on the date of occurrence.

5. Over and above all, it can significantly be mentioned that Km. Pinki along with Vikas, Kumar and his mother are personally present in the Court today. Km. Pinki and Vikas Kumar have admitted that they had long courtship being the resident in the closed neighbourhood. So, they converted this courtship into the marriage and now they have legally wedded.

6. Learned counsel for the petitioner Parvati Devi has contended that Km. Pinki being a minor girl, cannot marry and if she is not prepared to go with her mother, then she should be sent to the Nari Niketan. The Court is not ready to accept this argument of the learned counsel for the petitioner Parvati Devi and thus reject the same.

7. It is pertinent to note that date of birth as revealed in the Primary School Certificate is 15.09.1995. In that school Km. Pinki was got admitted on 19.08.2002 and left that school on 20.05.2008. So, it is apparent that the date of birth of Km. Pinki as has been shown in the junior high school or at the matriculation level is not real one. Her date of birth is really 15.09.1995 and not 10.09.1997.

8. That apart, looking wise also she appears to be a quite grown up lady and is quite happy with her husband, leading a life of rejoice in the matrimonial house. With the above facts and circumstances, I do not find any force in the petition WPCRL No. 648/2014 and the same is liable to be dismissed. So, it is hereby dismissed while the petition WPCRL No. 568/2014 is hereby allowed and the F.I.R. dated 12.04.2014 bearing Crime No. 291/2014 under Section 363 IPC, P.S. Kotwali, Haridwar is hereby quashed with the directions to the SHO of concerned Police Station not to harass and not to arrest the petitioner Vikas Kumar in any manner whatsoever regarding facts of this case.