



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M-18661-2021
Date of decision :21.08.2025**

RAGHBIR SINGH

... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Parvinder Singh, Advocate
for the petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J. (ORAL)

The prayer in the present petition under Section 482 Cr.P.C. is for issuance of directions to the official respondents to look into the representation dated 22.04.2021 (Annexure P-4) along with the prayer for protection of the life and liberty of the petitioners.

Para Nos.2 to 6 of the reply dated 08.06.2021 are as under:-

“2. That it is humbly submitted that the deponent verified from the Incharge of Pending Complaints Branch Hoshiarpur whether representation dated 22-04-2021 (Annexure P-4) was received in the office of Senior Superintendent of Police, Hoshiarpur or not. On this, the Incharge P.C. Branch Hoshiarpur gave in writing that no representation dated 22-04-2021 submitted by Raghbir Singh son of Kabal Singh R/o Village and Post Office Lallian, Tehsil Garhshankar, District Hoshiarpur was not received in the Office of Senior Superintendent of Police, Hoshiarpur. The true copy of writing given by Incharge P.C. Branch, Hoshiarpur is annexed as Annexure R-1.

3. That it is humbly submitted that in compliance of

aforementioned direction passed by this Hon'ble Court, the Senior Superintendent of Police, Hoshiarpur marked the inquiry of the matter to Assistant Superintendent of Police, Garhshankar. On this, the Assistant Superintendent of Police, Sub Division Garhshankar, further marked the inquiry of the matter to SHO, P.S. Garhshankar. As per direction of this Hon'ble Court, the SHO, P.S. Garhshankar called the petitioner Raghbir Singh, heard him and recorded his statement during the inquiry of the matter. During the inquiry, the SHO, P.S. Garhshankar found that Manjot Kaur daughter of the petitioner and Chahat son of Deepak R/o H.No.449, Gali No.1, Bhagat Nagar, P.S. Model Town, Hoshiarpur performed their marriage in Mata Rani Mandir, Rishi Nagar, Hoshiarpur. It was also found that at the time of marriage the age of respondent No.5-Chahat was 20 years and 6 months at the time of marriage whereas the age of the respondent No.5 should have been 21 years at the time of marriage. The petitioner wants to get done legal action against the respondent No.5 having less age at the time of marriage, respondent No.6-Deepak father of respondent No.5 and respondent No.7- Pandit Balram Sharma. But the matter is concerned with the Police of P.S. Model Town, Hoshiarpur and as such the matter is required to be referred to SHO, P.S. Model Town, Hoshiarpur for further action. Therefore, the SHO, P.S. Garhshankar sent the inquiry report alongwith papers to SSP, Hoshiarpur through ASP Sub-Division Garhshankar. On this, the SSP, Hoshiarpur marked the matter to the deponent for necessary action.

4. That it is humbly submitted that pursuant this, the deponent got conducted inquiry of the matter from SHO, P.S. City, Hoshiarpur and it was found that Manjot Kaur daughter of the petitioner got married to respondent No.5-Chahat. It was also found that Manjot Kaur daughter of the petitioner was 21 years old at the time of marriage and she was having required age for the marriage but the respondent No.5-Chahat was below 21 years and he was not having required age i.e. 21 years at the time of marriage with Manjot Kaur daughter of the

petitioner. The petitioner who is father of Manjot Kaur filed present petition against the respondent No.5 to 7 for registration of case against them as the respondent No.5 was not having required age at the time of marriage with Manjot Kaur daughter of the petitioner. Therefore the deponent recommended to obtain legal opinion from District Attorney, Hoshiarpur as to which offence has been committed by the respondent No.5 to 7, by performing marriage by respondent No.5 having not required age with Manjot Kaur daughter of the petitioner. Thereafter, the deponent sent the inquiry report along with papers to SSP, Hoshiarpur. On this, the Senior Superintendent of Police, Hoshiarpur obtained legal opinion from District Attorney, Hoshiarpur.

5. That it is humbly submitted that the District Attorney, Hoshiarpur after going through the present petition, report of DSP (City) Hoshiarpur, copy of order dated 21-05-2021 passed by this Hon'ble Court, statements of witnesses and other documents attached with the file, gave following opinion:

"I have carefully gone through the copy of aforesaid writ Petition, report given by DSP City, Hoshiarpur, copy of order dated 21-05-2021 passed by Hon'ble Punjab and Haryana High Court Chandigarh, statements of witnesses and other documents attached with the file. As per facts mentioned in the enquiry report, the respondents Deepak son of unknown, Pandit Balram Sharma performed the child marriage of child namely Chahat son of Deepak on 12-04-2021, who was aged 20 years and 6 months at the time of his marriage. The perusal of the marriage certificate dated 12-04-2021 issued by Pandit Balram Sharma, Mata Mandir Rishi Nagar, Hoshiarpur clearly proves this fact.

However, in the file under reference, the parties to the marriage are Hindus by their religion. As per section 4 of The Hindu Marriage Act, the said act has an overriding effect on all the other acts in force. "The Prohibition of child marriage Act, 2006" is a general act whereas "The Hindu marriage act" is a Special Act. Therefore, the Hindu Marriage Act will be applicable to all the Hindus performing any marriage in India.

As per section 18 of The Hindu marriage Act.

Every person who procures a marriage of himself or herself to be solemnized under this act in contravention of the conditions specified in clauses (iii) (iv) of section 5 shall be punishable with rigorous imprisonment which may extend to two years or with fine which may extend to one lakh rupees or with both."

Further, any offence, if punishable with imprisonment for less than 3 years or with fine only, is a non-cognizable offence.

So, in absence of any specific provision in an act with regard to cognizability of an offence, the classification of offences against other laws has to be seen.

Considering the facts and circumstances brought on file by the enquiry officer, I am of the considered opinion that the respondents Chahat, Deepak Kumar, Pt. Balram Sharma and Manjot have prima facie violated the provisions of section 5 (iii) of The Hindu Marriage Act which is punishable under section 18 of the said Act. But as the punishment prescribed for the offence committed is less than 3 years, it is a non-cognizable offence. Therefore, the complainant may be advised to pursue this complaint at his own level in appropriate Court having competent jurisdiction, if so approved please."

6. That it is humbly submitted that the Senior Superintendent of Police, after obtaining legal opinion from District Attorney, Hoshiarpur, directed the SHO, P.S. City, Hoshiarpur to take necessary action in view of the legal opinion given by the District Attorney, Hoshiarpur. As per legal opinion of District Attorney, Hoshiarpur, the respondents Chahat, Deepak Kumar, Pt. Balram Sharma and Manjot Kaur have prima facie violated the provisions of section 5 (iii) of The Hindu Marriage Act which is punishable under section 18 of the said Act. But as the punishment prescribed for the offence committed is less than 3 years, so it is a non-cognizable offence.

Therefore, no FIR is liable to be registered against the respondent No.5 to 7, in view of the above said opinion given by District Attorney, Hoshiarpur."

In view of the above, no further orders are required to be passed by this Court and the parties are at liberty to avail their remedies in accordance with law.

Disposed of.

(JASJIT SINGH BEDI)
JUDGE

21.08.2025
JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No