

2-2019

MC 1839/18

Order pronounced in the Open  
Court, vide separate Judgment.

ORDER.

This petition filed under Section 3 of the  
Prohibition of Child Marriage Act, 2006 is allowed.

The marriage solemnized between the  
petitioner and respondent on 03.01.2017 at Electronic  
City, Bangalore, is hereby declared as null and void.

No order as to costs.

Draw decree accordingly.

IV Addl. Pri. Judge,  
Family Court,  
Bangaluru

Decree signed on 23/10/19

IV Addl. pri. Judge  
Family Court, Bengaluru.



IN THE COURT OF THE IV ADDITIONAL PRL. JUDGE,  
FAMILY COURT, BENGALURU

**Present:** Smt. B. Pushpanjali,  
B.A., LL.M.  
IV Addl. Prl. Judge,  
Family Court,  
Bengaluru

This the 16th day of October, 2019.

M.C.No.1839/2018

Petitioner: SARASWATI KUMAR D/o Manraj Kumar  
Aged 13 Years Residing at: Swakshatra  
Home for Children #682, 8th B Main, Vijaya  
Bank Layout, Arkere, Off Bannerughatta  
Road, Bangalore – 560076 Represented by  
her father MANRAJ KUMAR  
(By Sri Jayna Kothari, advocate)

/ Versus /

Respondent: LOKESH KUMAR S/o Surkullo Kumar  
Aged about 23 years Residing at: House  
Number 769, Near Bata Showroom,  
Neeladri Park Road, Hulimangala,



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Electronic City, Bangalore - 560100.

(In person)

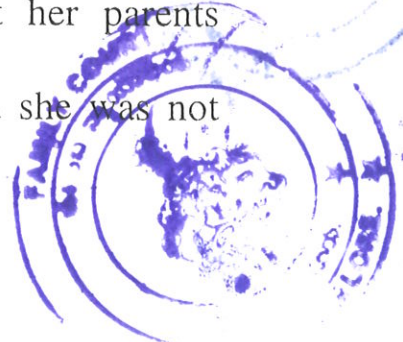
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**JUDGMENT**

This petition is filed by the petitioner Saraswati who is a minor, represented by her father Manraj Kumar, for declaring the marriage solemnized between the petitioner and respondent on 03.01.2017 at Electronic City, Bangalore, as null and void under Section 3 of the Prohibition of Child Marriage Act, 2006.

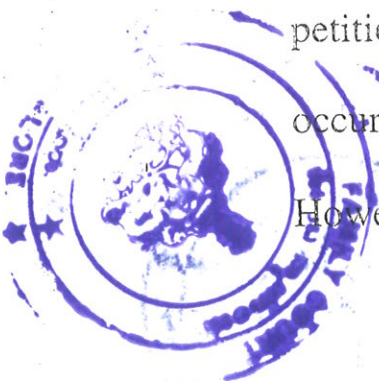
2. The brief facts of the case of the petitioner are that she and her family are residents of Bangalore. The petitioner's father works as a security guard and the petitioner's mother works as a household maid. The petitioner, Saraswati accompanies her mother to her work occasionally. The petitioner is presently only 15 and a half years old. The petitioner was residing at her parents residence at Electronic City, Bangalore and she was not

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enrolled in any school and would help her mother at home or accompany her to her workplace. On 3 January 2017 when the petitioner was 14 years old, the respondent who is also a resident in the same neighbourhood, came along with another person named Ramachandran and forcefully took the petitioner from the vicinity of her house against her will. At that time, both her parents were not in the house and she was alone. The petitioner was kidnapped and taken to the respondent's brother's house at Electronic City where a marriage ceremony as per Hindu rites and ceremonies was forcefully performed between the petitioner and the respondent. After the marriage, later in the night at about 2 am, the petitioner somehow managed to escape with the help of one Gajendra, a member of the community who was known to the petitioner; and they took her back to her parents' house. At that time, the petitioner did not disclose the details of the events that had occurred that night to her parents as she was too scared. However, after a few days the respondent went to the





petitioner's house and informed her parents that a marriage was solemnized between himself and the petitioner, in the presence of his brother. The respondent also showed photographs of the said marriage to the petitioner's parents, and threatened and coerced them into consenting to performing another marriage ceremony in the residence of the petitioner. Consequently, another formal marriage ceremony was conducted on that same day, i.e. on 15th January 2017 by the petitioner's father, in his house, as per Hindu rites and ceremonies. At that time the petitioner's parents had said that even after the marriage, they would keep the petitioner in their house for 5 years with them. At that time she had not even attained puberty. After this marriage, the respondent kept harassing the petitioner's parents and took the petitioner with him to his residence. The marriage was consummated at his residence. The petitioner however was also subjected to physical violence by the respondent and even her sister was physically abused by the

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respondent. Thereafter on 31.03.2017, a family friend of the petitioner's family, being Ajay informed CHILDLINE India Foundation of the circumstances of the petitioner who had been married against her will at a minor age, contrary to the provisions of the Prohibition of Child Marriage Act, 2006. The CHILDLINE, which rescued the petitioner from her sister's matrimonial home. The petitioner then spent 5 days in a State-run home for girls, after which she was transferred to the care of Swakshatra Home for Children. The petitioner is currently under the care of Swakshatra Home for Children, and is residing at their accommodation at #682, 8th B Main, Vijaya Bank Layout, Arkere, Off Bannerughatta Road, Bangalore. Swakshatra is taking care of her needs and facilitating remedial literacy. This is being done with the full consent and knowledge of the petitioner's parents. The petitioner was forced and compelled into this marriage, without her wish and was enticed away from the guardians. Hence this marriage would be void under Section 12 of the



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Prohibition of Child Marriage Act 2006. The petitioner also wishes to exercise her option under Section 3 of the PCMA to have the said marriage declared void. Hence the petition.

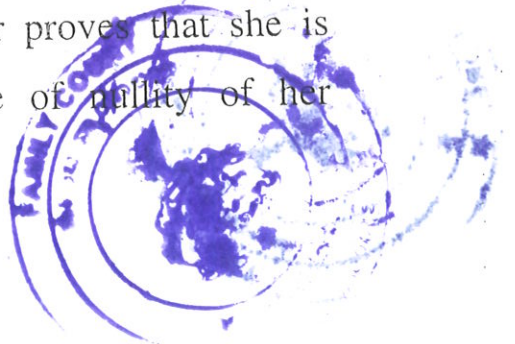
3. The order sheet indicates that the respondent appeared in person and filed a memo dated 8.2.2019 stating that he has no objection for allowing the petition and sought to pass a decree of annulment of marriage solemnized between him and the petitioner. In view of this memo, there was no necessity to record the evidence of the parties, since admitted facts need not be proved.

4. Heard the arguments.

5. The following points arise for my consideration:

1. Whether the petitioner proves that she is entitled for a decree of nullity of her

*6/6/19*





petitioner  
of the  
the

marriage with the respondent under section  
3 of the Prohibition of Child Marriage Act,  
2006?

2. What order?

6. My findings on the above points are as  
follows:

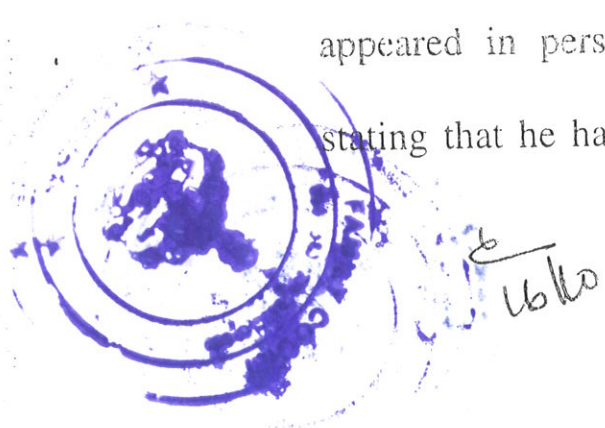
1. In the Affirmative

2. As per the final order

for the following:

REASONS.

7. Point No.1: This petition is filed by the  
petitioner Saraswati who is a minor, represented by her  
father Manraj Kumar, for declaring the marriage  
solemnized between the petitioner and respondent on  
03.01.2017 at Electronic City, Bangalore, as null and void  
under Section 3 of the Prohibition of Child Marriage Act,  
2006. The order sheet indicates that the respondent  
appeared in person and filed a memo dated 8.2.2019  
stating that he has no objection for allowing the petition





and sought to pass a decree of annulment of marriage solemnized between him and the petitioner.

8. The brief facts of the case of the petitioner are that on 3 January 2017 when the petitioner was 14 years old, the respondent who is also a resident in the same neighbourhood, came along with another person named Ramachandran and forcefully took the petitioner from the vicinity of her house against her will. At that time, both her parents were not in the house and she was alone. The petitioner was kidnapped and taken to the respondent's brother's house at Electronic City where a marriage ceremony as per Hindu rites and ceremonies was forcefully performed between the petitioner and the respondent. After the marriage, later in the night at about 2 am, the petitioner somehow managed to escape with the help of one Gajendra, a member of the community who was known to the petitioner, and they took her back to her parents' house. At that time, the petitioner did not disclose

*Ullas*



the details of the events that had occurred that night to her parents as she was too scared. However, after a few days the respondent went to the petitioner's house and informed her parents that a marriage was solemnized between himself and the petitioner, in the presence of his brother. The respondent also showed photographs of the said marriage to the petitioner's parents, and threatened and coerced them into consenting to performing another marriage ceremony in the residence of the petitioner. Consequently, another formal marriage ceremony was conducted on that same day, i.e. on 15th January 2017 by the petitioner's father, in his house, as per Hindu rites and ceremonies. At that time the petitioner's parents had said that even after the marriage, they would keep the petitioner in their house for 5 years with them. At that time she had not even attained puberty. After this marriage, the respondent kept harassing the petitioner's parents and took the petitioner with him to his residence. The marriage was consummated at his residence. The

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petitioner however was also subjected to physical violence by the respondent and even her sister was physically abused by the respondent. Thereafter on 31.03.2017, a family friend of the petitioner's family, being Ajay informed CHILDLINE India Foundation of the circumstances of the petitioner who had been married against her will at a minor age, contrary to the provisions of the Prohibition of Child Marriage Act, 2006. The CHILDLINE, which rescued the petitioner from her sister's matrimonial home.

9. To substantiate that as on the date of marriage the petitioner has not attained the age of majority i.e. 18 years, the age determination certificate issued by the Fortis hospital dated 23.12.2018 along with Radiology Report is produced. On perusal of the same, it reveals that as on the date of filing of the petition, the minor ward appears to be aged between 15 and 16 years. So as on the

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date of marriage the petitioner was around 13 and 14 years.

10. Section 3 in The Prohibition of Child Marriage Act, 2006 reads thus:

“3. Child marriages to be voidable at the option of contracting party being a child.-

(1) Every child marriage, whether solemnised before or after the commencement of this Act, shall be voidable at the option of the contracting party who was a child at the time of the marriage: Provided that a petition for annulling a child marriage by a decree of nullity may be filed in the district court only by a contracting party to the marriage who was a child at the time of the marriage,

(2) If at the time of filing a petition, the petitioner is a minor, the petition may be filed through his or her guardian or next friend alongwith the Child Marriage Prohibition Officer.

(3) The petition under this section may be filed at any time but before the child filing the



16/11/20



petition completes two years of attaining majority.

(4) ... ..”

Since the petitioner being a minor at the time of marriage, has challenged her marriage with the respondent, the marriage in question becomes a voidable marriage.

11. Also, Section 12 in The Prohibition of Child Marriage Act, 2006 reads thus:

“12. Marriage of a minor child to be void in certain circumstances.-Where a child, being a minor-

(a) is taken or enticed out of the keeping of the lawful guardian; or

(b) by force compelled, or by any deceitful means induced to go from any place; or

(c) ... ..”

It is also the case of the petitioner that she was forcibly taken from her house, while her parents were not in the house and she was compelled to marry the respondent. As such, the marriage in question is also a void marriage

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ing  
12. Further Section 5(iii) in The Hindu Marriage Act, 1955 reads thus:

“5 Conditions for a Hindu marriage. A marriage may be solemnized between any two Hindus, if the following conditions are fulfilled, namely;

(i) ...

(ii) ...

(iii) the bridegroom has completed the age of twenty-one years and the bride, the age of eighteen years at the time of the marriage;”

Since the petitioner, being a Hindu, has not completed the age of 18 years, as on the date of her marriage with the respondent, the said marriage is in contravention of section 5(iii) of the Hindu Marriage Act. Hence the marriage of the petitioner with the respondent can be declared as null and void on all these grounds. The respondent, who appeared in person before the court, has also consented to decree the petition. Accordingly, I answer this point in the Affirmative.



13. Point No.2: In view of my findings on point  
No.1, I proceed to pass the following:

**ORDER.**

This petition filed under Section 3 of the  
Prohibition of Child Marriage Act, 2006 is allowed.

The marriage solemnized between the  
petitioner and respondent on 03.01.2017 at Electronic  
City, Bangalore, is hereby declared as null and void.

No order as to costs.

Draw decree accordingly.

(Dictated to the Judgment Writer, transcribed  
and computerized by him, script corrected, signed and  
then pronounced by me in the Open Court on this the 16th  
day of October, 2019.)

(B. Pushpanjali)  
IV Addl. Pri. Judge  
Family Court  
Bengaluru

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**ANNEXURE**

1. List of witness examined for the petitioner Nil

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*6/10/19*



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2. List of witness examined for the respondent: Nil
3. List of documents marked for the petitioner: Nil
4. List of documents marked for the respondent: Nil

*[Signature]*  
(B. Pushpanjali)  
IV Addl. Prl. Judge  
Family Court  
Bengaluru

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Decree  
Section 34 CPC  
Form No.15  
(Civil)

IN THE COURT OF THE IV ADDL. PRINCIPAL JUDGE,  
FAMILY COURT, BENGALURU.  
M.C.No.1839/2018

Date of Institution:05.04.2018  
Date of Disposal:16.10.2019

PETITIONER

v/s

RESPONDENT

Saraswathi Kumar,  
D/o Manraj Kumar,  
Aged about 13 years,  
Rat Swakshatra Home for  
Children,  
#682, 8<sup>th</sup> B Main, Vijaya Bank  
Layout, Arkere, Off  
Bannerghatta Road,  
Bengaluru-560076.  
Represented by her father  
Manraj Kumar.

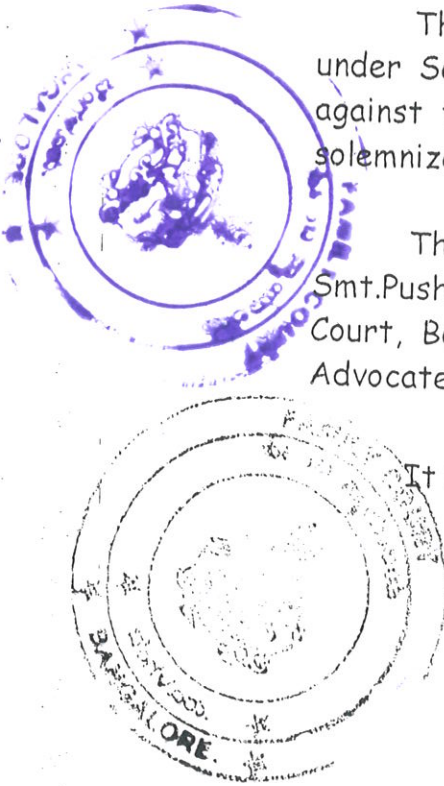
Lokesh Kumar,  
S/o Surkullo Kumar,  
Aged about 23 years,  
R/at House No.769,  
Near Bata Showroom,  
Neeladri Park Road,  
Hulimangala,  
Electronic City,  
Bengaluru-560100.

CLAIM:

The petitioner has filed this petition under Sec.3 of the Prohibition of Child Marriage Act, 2006 against the respondent praying to declare of her marriage solemnized on 03.01.2017 as null and void.

This petition coming on for final disposal before Smt.Pushpanjali, B.A., LL.M., IV Addl. Principal Judge, Family Court, Bengaluru and in the presence of Sri.Jayna Kothari., Advocate for the petitioner and respondent in person.

It is ordered and decreed that,



M.C.No.1839/2018

The petition filed by the petitioner under sec.3 of the Prohibition of Child Marriage Act, 2006 is allowed.

The marriage solemnized between the petitioner and respondent on 03.01.2017 at Electronic City, Bengaluru, is hereby declared as null and void.

It is further ordered and decreed that there shall be no order as to costs.

Given under my hand and the seal of this Court on this the 16<sup>th</sup> day of October, 2019.

IV Addl. Judge

Family Court, Bengaluru.

MEMORANDUM OF COST INCURRED IN THIS PETITION

	By the petitioner	By the respondent
Court fee on petition	Rs. 100-00	--
Service of process	Rs. 11-00	--
Total	Rs. 111-00	--

Computerized by:

G. S. R. L.

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Decree signed on: 23.10.2019

IV Addl. Judge

Family Court, Bengaluru.

