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Minor can elope to save her love: HC

If a minor girl runs away with her lover to save herself from the onslaught of her parents opposed to the affair and gets married, she or her spouse is deemed to have committed any offence, the Delhi High Court has said.

In a judgement that could trigger a debate on the extent of liberty minor girls enjoy under the law, the court said parents have no right to marry off a daughter against her wishes, as "right to life and liberty as guaranteed by the Constitution is equally available to minors". Justice Shiv Narayan Dhi the ruling recently while quashing criminal charges slapped by a minor Muslim girl's father on her husband who is a Hindu.

Braving stiff resistance from her father and the community, 17-year-old Afsana (later became Anjali) married Vivek on April 12 last year at an Ary Mandir. Frustrated at his failure to persuade his daughter, the father filed an FIR against the boy, accusing him of kidnapping her. Under the Indian Code, the consent of a girl below 18 years for marriage is not valid and the spouse can be punished for kidnapping. However, "forceful taking away "enticement" has to be proved in the case.

But in her statement before the court, Afsana said: "I told my father that I am in love with Vivek and wish to marry him. He repeatedly slapped me was going to malign our religion and threatened to kill me. One day, a boy of my father's choice came to meet me and said I will have to live with him for three months and thereafter live with his grandfather. I told him I was in love with someone else and the next day I ran away with Vivek".

The girl's father said the minor was enticed away by assurance of marriage and a place to live and therefore it was a kidnap. Perusing the girl's statement Justice Dhingra said it was clear she had gone as per her own will. "If a girl around 17 years of age runs away from her parents house to save herself from the onslaught of her father or relatives and joins her lover or runs away with him, it is no offence on the part of girl or the boy with whom she ran away married," the judge said.

"There was a threat to her life...she has a right to protect herself. In fact, the father has forced her to run away."

"Can falling in love be said to be enticing? If two persons fall in love, who is enticing whom? Does providing shelter to a driven away girl amount to enticing and kidnapping? The answer is an emphatic 'no'," said the court.

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