

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH****CRM-M-38533-2015
Date of decision:17.11.2015**

Binita and another

...Petitioners

Versus

UT Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.Jitender Malik, Advocate for the petitioners.
Ms.Ashima Mor, Advocate for UT Chandigarh.
Mr.Manoj Kumar, Advocate for respondent No.4.

RAMESHWAR SINGH MALIK, J. (Oral)

Petitioners, by way of instant petition, under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short), seek directions to the official respondents to provide protection to the life and liberty of the petitioners, as they are apprehending danger to their life and liberty, at the hands of respondent No.4.

Notice of motion was issued.

Learned counsel for UT Chandigarh fairly states that let the petitioners be permitted to move an appropriate representation to the Senior Superintendent of Police, Chandigarh as and when they face any threat perception and appropriate action thereon shall be taken, in accordance with law. She further submits that petitioners must point out their exact address, so that appropriate protection can be granted to them.

Faced with the above, learned counsel for the petitioners also

fairly states that given an opportunity, petitioners shall approach the Senior Superintendent of Police, UT Chandigarh-respondent No.2 within a period of one week from today by moving an appropriate representation and he may be directed to take an appropriate action thereon by providing adequate security to the petitioners.

The issue involved in the present case is a short one, that is to say, seeking only the protection to the life and liberty of the petitioners. This issue, in fact, is no more *res-integra*. The law, in this regard, has been laid down by the Hon'ble Supreme Court of India, in a catena of judgments including in the cases of **A.K.Gopalan versus State of Madras, AIR 1950 SC 27**, **Kartar Singh versus State of Punjab (1994) 3 SCC 569** and **Lata Singh versus State of UP & anr. 2006 (3) RCR (Criminal) 870**, which has been followed by this Court in the case of **Pardeep Kumar Singh versus State of Haryana 2008 (3) RCR (Criminal) 376**.

It is pertinent to note here that about three decades after A.K.Gopalan's case (supra) the Hon'ble Supreme Court further widened the scope of Article 21, in the case of **Maneka Gandhi versus Union of India, (1978) 1 SCC 248** thereby widening the scope of the law laid down in the A.K.Gopalan's case (supra). Thereafter, the Hon'ble Supreme Court, in long series of subsequent decisions, went on to explore the true meaning of the word "Life" in Article 21 and the recent one was rendered by the Constitution Bench in **State of West Bengal & others versus Committee for Protection of Democratic Rights & others (2010) 3 SCC 571**.

Having heard the learned counsel for the parties and after giving thoughtful consideration to the facts and circumstances of the case,

this Court is of the considered opinion that the instant one is a fit case for exercising the inherent jurisdiction under Section 482 Cr.P.C. Article 21 of the Constitution of India, protects the most precious right of every citizen, it being the Right to life. In view of the constitutional mandate and the law laid down by the Hon'ble Supreme Court in the cases of A.K.Gopalan, Maneka Gandhi, Kartar Singh and Lata Singh (supra) followed by this Court in many cases including Pardeep Kumar Singh's case (supra), the petitioners are entitled to seek the protection to their life and liberty.

It is also equally important to note that freedom of the individual is not absolute but subject to the established and time tested social norms of a civilised society. Co-existence of freedom of the individual and social control is *sine-qua-non* for the sustainable progress of the society and this is also the integral part of our constitutional philosophy. Therefore, though the petitioners are entitled for protection to their life and liberty in the given facts and circumstances of the present case but at the same time, it is also expected from them and other young citizens like them that before running away from their homes for performing this type of 'rebellion marriage', they must think twice, besides, listening carefully to their respective parents who are not their enemies but real well wisher. Let us welcome the dynamic social change and evolution but only subject to the social control and moral values which are centuries old and have not lost their shine even today.

In view of the above-said statements made by the learned counsel for the parties, instant petition is disposed of with liberty to the petitioners to approach the Senior Superintendent of Police, Chandigarh-

respondent No.2 by moving an appropriate representation and respondent No.2 is directed to look into the matter, take an appropriate action and provide adequate security to the petitioners as and when required. He shall further ensure that no harm is caused to the life and liberty of the petitioners, at the hands of respondent No.4 or anybody else on her behalf.

However, lest this order is misunderstood, it is clarified that this order shall not mean that the petitioners had reached the age of marriage, as required by the law applicable to them, at the time of their marriage or that their marriage is legal as per the relevant provisions of law. It is so said because neither it is the issue involved in the present petition nor this Court is putting its seal of approval on the validity of marriage of the petitioners. In fact, it is the domain of the matrimonial Court of competent jurisdiction, to decide the validity of the marriage and that too on the basis of the pleadings taken and the evidence led by the parties in the given circumstances of each case.

It is also made clear that this order shall not entitle the petitioners for any protection against their arrest or continuance of any criminal proceedings, if they are found involved in the commission of any cognizable offence. In case the petitioners had committed any offence, the law will take its own course.

With the above-said observations made and directions issued, the present petition stands disposed of.

17.11.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE