

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

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CRM-M-30165-2016

Date of decision : 06.12.2016

Babli Kaur @ Rani and another**..... Petitioners****versus****State of Haryana and others****..... Respondents****CORAM : HON'BLE MR.JUSTICE AJAY TEWARI*********

Present : Mr. Saurabh Bhardwaj , Advocate
for the petitioners.

Mr. Deepak Grewal, DAG, Haryana.

Mr. Ravi K. Mattu, Advocate
for respondent No.8

*********AJAY TEWARI, J. (Oral)**

This is a petition for issuance of a direction to the official respondents Nos. 1 and 2 to protect the life and liberty of the petitioners and not to harass them at the instance of respondent Nos. 3 to 7 as they have got married against the wishes of their parents.

In paragraph 02 sub paragraph (g) of the petition, the following averments have been made:

“That the parents of the petitioner No.2 have no objection from this marriage, but the respondent Nos. 3 to 7 who is father and other relatives of petitioner No.1 did not agreed with this marriage and they threatened the petitioners to kill if they were ever seen together.”

In paragraph 02 in sub-paragraph (i) the following averments have been made:

“That is it worth to mention here that petitioners do not fall within any prohibited degree of relationship nor they have any Spinda relationship with each other. This is the first marriage of both the petitioners.”

On 29.08.2016 when the petition came up for hearing the following order was passed:

Parents of both the petitioners are here and both of them stated that petitioner No.2 is already married and rather his wife is already expecting a child. The petitioner No.1 stated that she already knew about the first marriage of petitioner no. 2 but still she wants to stay with him.

Mr. Ravi K. Mattu, Advocate states that he is representing the first wife of the petitioner No.2 namely Ramandeep Kaur and prays for a short adjournment to enable him to move a necessary application for impleadment. In view of the facts of the present case I deem it appropriate to exempt her from filing an application and on oral request of learned counsel for respondent No.8 Ramandeep Kaur wife of the petitioner No.2 residence of Village Arnauli, Tehsil Cheeka, District Kaithal, Haryana is impleaded as respondent No.8. Registry is directed to make necessary correction in memo of parties.

It has been agreed by all the counsel to adjourn this matter for 3 months. During this 3 months petitioner No.1 shall stay with her parents and the petitioner No.2 will get fixed deposits of Rs, 5,00,000/- each created in the name of the petitioner

No.1. and the respondent No.8. In case the pregnancy of the respondent No.8 is confirmed he will create a third fixed deposit of Rs. 5,00,000/-in the name of respondent No.8 (though for the benefit of the unborn child).

Adjourned to 28.11.2016.

Respondent Nos. 3 to 5 are directed to ensure the presence of the petitioner No.1 in the court on that date.

In the meantime, respondent No.2 Superintendent of Police, Kaithal is directed to ensure that no harm caused to the petitioners.

Further proceedings in FIR No. 197 dated 25.08.2016 under Sections 363, 366 IPC, P.S. Cheeka lodged against petitioner No.2 are stayed and in view of the agreement made today, they would not insist on any action against petitioner No.2 under that FIR.

On 28.11.2016 counsel for the petitioner sought time to enable the petitioner No.2 to comply with the undertaking of the previous date. Even today, the petitioner No.2 has not created the fixed deposits.

Moreover a similar petition filed before the Allahabad High Court where one of the parties was already married bearing No. Writ-C No. 53503 of 2016 titled as Kusum and Another vs. State of UP and 03 others decided on 09.11.2016, the learned Single Judge held as follows:

It is sought to be urged on behalf of the petitioners that though the first petitioner is already married and her marriage subsist in law, however, the petitioners have a right to live in-relationship, therefore, are entitled to protection.

In my opinion, the contention of learned counsel for the petitioner is misconceived for the reason that it is admitted that the first petitioner is already married and this fact is also known to the second petitioner, as such, the relationship is adulterous for which the second petitioner can be prosecuted. Under law relationship 'in the nature of marriage' is recognized and not a simplicitor live-in relationship as held by the Supreme Court in Indra Sharma Vs. V.K.V. Sharma, wherein the court observed as follows. Paragraph 37, 38, 39 and 53 are reproduced:

“37. Distinction between the relationship in the nature of marriage and marital relationship has to be noted first. Relationship of marriage continues, notwithstanding the fact that there are differences of opinions, marital unrest etc., even if they are not sharing a shared household, being based on law. But live-in-relationship is purely on arrangement between the parties unlike, a legal marriage. Once a party to a live-in-relationship determines that he/she does not wish to live in such a relationship, that relationship comes to an end. Further, in a relationship in the nature of marriage, the party asserting the existence of the relationship, at any stage or at any point of time, must positively prove the existence of

the identifying characteristics of that relationship, since the legislature has used the expression “in the nature of.....”

And then held as follows:

*The ratio of **Indra Sharma** squarely applies on the facts of the present case for the reason it is admitted and pleaded in the writ petition that the second petitioner entered into a relationship with the first petitioner who is married and her marriage has not been dissolved by any competent court as on date, therefore, such a relationship cannot be granted any protection.*

In view of above facts, the petition stands dismissed.

December 06, 2016
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No