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

CRWP-4540-2020

Date of decision-21.07.2020

Shivani and another

...Petitioners

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. G.S.Simble, Advocate for the petitioners.

Mr. M.S.Nagra, AAG, Punjab.

Mr. Mukesh Kumar Bhatnagar, Advocate
for respondent Nos.4 to 6.

MANOJ BAJAJ, J.

By means of this writ petition under Article 226 Constitution of India, petitioners have prayed for issuance of directions to respondent Nos.2 and 3 to protect the life and liberty of the petitioners who are facing interference in their peaceful life by respondent Nos.4 to 6 (parents and brother, respectively of petitioner No.1).

The petitioners have claimed that being major, they decided to solemnize the marriage and the said decision was opposed by the private respondents, though, parents of petitioner No.2 raised no objection to their proposed alliance. Despite opposition by respondent Nos.4 to 6, the

petitioners allegedly solemnized marriage on 30.06.2020 at Sri Guru Nanak Gurdwara, Batala, District Gurdaspur, and as this was opposed by respondent Nos.4 to 6, the petitioners submitted a representation dated 01.07.2020 (Annexure P-4) to Commissioner of Police, Amritsar revealing the apprehension of threat and prayed for protection.

On 07.07.2020, learned State counsel was directed to find out the existence of alleged threat and the matter was adjourned for 20.07.2020.

On 20.07.2020, respondent Nos.4 to 6 were represented by Mr. Mukesh Kumar Bhatnagar, Advocate who had apprised the Court that upon a complaint given by the father of girl (respondent No.4), a case FIR No.313 dated 03.07.2020 stands registered against petitioner No.2 at Police Station Islamabad. However, the case was adjourned for 21.07.2020 on request of the learned State counsel.

Today, an affidavit on behalf of respondent No.4 has been filed wherein it has been mentioned that the date of birth of petitioner No.1 is actually 09.12.2002 whereas in the petition, it has been wrongly described as 16.07.2001 only to show that she has attained the age of majority.

Learned counsel for respondent Nos.4 to 6 has submitted that petitioner No.1 is minor and the Police has already registered a case against petitioner No.2 for the offences punishable under Sections 363 and 366-A IPC. Learned State counsel does not dispute this fact and states that indeed the case has been registered as mentioned by Mr. Bhatnagar.

Learned counsel appearing on behalf of the petitioners has also not disputed the above position but has contended that since the claim of the

petitioners is founded on their fundamental right to life as enshrined under Article 21 of the Constitution, therefore, couple deserves protection from Police. In support of his argument, he has placed reliance upon the judgment passed by Hon'ble Division Bench of this Court, titled as “**Rajwinder Kaur and another Vs. State of Punjab and others**”, 2014 (4) R.C.R.(Criminal) 785.

After hearing learned counsel for the parties, this Court finds that case FIR No.313 dated 03.07.2020 under Sections 363 and 366-A IPC has already been registered against the petitioner No.2 and *prima facie* the girl is minor. Apart from it, the petitioners have failed to show the manner and mode of alleged threat extended by the respondent Nos.4 to 6, as they have already adopted their remedy in law by filing a complaint before Police, against the petitioner No.2.

Further, the decision relied upon by learned counsel is not applicable in the present case, as in the said case while extending protection to the runaway couple, it was noticed by the Division Bench that the husband and wife were major and the claim for their protection was declined on the ground that the marriage was not validly performed by them. It was observed that even in the absence of a valid marriage, life and liberty of a person stands on higher pedestal in view of the Article 21 of Constitution of India. Besides, the right to life is not an absolute right and is subject to certain exceptions, particularly contained in the Indian Penal Code.

In the totality of the facts and circumstances of the case, this Court does not find any convincing ground to accept the prayer made by the

petitioners. Resultantly, petition fails and dismissed.

(MANOJ BAJAJ)
JUDGE

21.07.2020

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No