

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

107

**CRWP-4597-2020 (O&M)
Date of decision: 02.11.2020**

Bhavna Sharma and another	Versus	Petitioners
State of Haryana and others		Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Arvind Moudgil, Advocate
for the petitioners.

Mr. Naveen Singh Panwar, DAG, Haryana
for respondents No.1 to 3.

Mr. Aditya Sanghi, Advocate
for respondent No.4.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

CRM-W-895-2020

The prayer in the application is for directing petitioner No.1 to allow respondent No.4 to meet petitioner No.2 on his birthday on 19.09.2020 and twice a week.

Learned counsel for the applicant/respondent No.4 has submitted that the applicant/respondent No.4 does not want to press the application.

Disposed of as not pressed.

CRWP-4597-2020

The petitioners have filed present petition under Article 226 of the Constitution of India for issuance of a writ in the nature of mandamus directing respondents No.1 to 3 to protect the life and liberty of the petitioners from danger at the hands of respondent No.4 and to

take appropriate action against respondent No.4 on the basis of complaints made by petitioner No.1 (Annexures P-1 and P-2).

This Court, while issuing notice of motion on 09.07.2020 had directed respondent No.2-Commissioner of Police, Panchkula to look into the matter personally and take appropriate steps for protection of life and liberty of the petitioners from harm at the instance of respondent No.4 as per threat perception and also against taking of forcible custody of petitioner No.2 by respondent No.4 from petitioner No.1.

In compliance with above said order short reply by way of affidavit of Raj Kumar, HPS, Assistant Commissioner of Police, Panchkula was filed in the registry.

Learned Counsel for the petitioners has submitted that petitioner No.1 was married to respondent No.4 on 21.11.2007 and petitioner No.2 was born out of the wedlock on 19.09.2012. Respondent No.4 treated petitioner No.1 with cruelty for not meeting his dowry demands. Petitioner No.1 found her husband-respondent No.4 indulging in online sex with various women on multiple occasions. On 10.06.2020 when petitioner No.1 objected to the same, respondent No.4 twisted her arm. On 13.06.2020, petitioner No.1 managed to lay hands on the i-phone used by respondent No.4 which belonged to her but was used by respondent No.4. The same contained multiple nude photographs of respondent No.4 and various women with whom respondent No.4 was having online sex. Petitioner No.1 made complaint to respondent No.3 in this regard. On coming to know about it, respondent No.4 along with some other persons tried to kidnap

petitioner No.2 minor son and physically harm petitioner No.1. Petitioner No.1 submitted complaint dated 21.06.2020 to the SHO, Police Station Sector-23, Panchkula. No action has been taken on the complaints of the petitioner No.1.

Learned counsel for respondent No.4 has submitted that respondent No.4 has already shifted to a different city and there is no threat to their life and liberty and also forcibly taking of custody of petitioner No.2 from petitioner No.1 by respondent No.4 and allegations made in the representations of the petitioners are false and frivolous.

Learned State counsel has no objection if appropriate directions are given to respondents No.2 and 3 for protecting the life and liberty of the petitioners. However, learned State counsel has submitted that petitioner No.1 has equally efficacious remedy of filing complaint and the petition is not maintainable qua issuance of directions to respondents No.2 and 3 for disposal of her complaints.

So far as the relief of issuance of directions to respondents No.1 to 3 to protect the life and liberty of the petitioners is concerned, respondent No.2-Commissioner of Police, Panchkula is directed to look into the grievances of the petitioners as set out in the petition and also expressed in the complaints (Annexures P-1 and P-2) and take appropriate action for protection of their life and liberty from harm at the hands of respondent No.4 as may be warranted by the circumstances.

However, so far as the relief of issuance of directions to respondents No.1 to 3 to take appropriate action against respondent

No.4 on the basis of the complaints (Annexures P-1 and P-2) is concerned, in view of observations made by Hon'ble Supreme Court in ***Sakiri Vasu Vs. State of U.P. and others : 2008(1) RCR(Crl.) 392*** and availability of equally efficacious remedy of filing complaint before the Judicial Magistrate First Class having jurisdiction, the present writ petition is not maintainable for issuance of directions as prayed for by petitioner No.1 who shall be at liberty to file complaint before the Judicial Magistrate First Class having jurisdiction.

As mentioned in order dated 10.08.2020, respondent No.4 had offered to deposit amount of Rs.20,000/- per month in the account of the minor child and subject to any maintenance order passed by competent Court, respondent No.4 shall be at liberty to voluntarily deposit the amount as offered.

The petition is disposed of accordingly with direction to respondent No.2 and liberty to petitioner No.1 and respondent No.4 as aforesaid.

Registry is directed to send a copy of this order along with copy of the petition and above-said complaints (Annexures P-1 and P-2) to respondent No.2-Commissioner of Police, Panchkula for ensuring requisite compliance.

02.11.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No