

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

CRWP No.8423 of 2020

DATE OF DECISION :- October 15, 2020

Seema Devi Shakya and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Rajesh Bhateja, Advocate for the petitioners.

H.S. MADAAN, J. (Oral)

Petitioner No. 1 Seema Devi Shakya, aged about 41 years and petitioner No. 2 Satish Kumar son of Sube Singh, aged about 40 years, both residents of Mangalpur, Jind, Haryana have filed the instant criminal writ petition against respondents No. 4 and 5 for issuance of a direction to official respondents No. 1 to 3 to protect life and liberty of the petitioners and for providing security to the petitioners.

According to the petitioners, petitioner No. 1 Seema Devi Shakya was earlier married with Sukhbir Singh Arora-respondent No. 6 against her wishes under pressure of her family members. There was age difference of 32 years between them. The said marriage was dissolved by way of Panchayati divorce. Similarly, Satish Kumar-respondent No. 2 who was married earlier with Nirmal had given Panchayati divorce to her. Nirmal has since died. The petitioners claim that they have tied the nuptial knot on 25.9.2020. They are apprehending danger to their lives and personal liberty at the hands of private respondents. They are said to

have moved representation to Superintendent of Police, Jind on 26.9.2020 (Annexure P-6) without evoking any response.

Notice of motion to Respondents No. 1 to 3.

Mr. Tanuj Sharma, AAG, Haryana has accepted notice on behalf of State of Haryana.

Under Section 5 of the Hindu Marriage Act, which provides conditions for a valid marriage, the Ist condition is that neither party has a spouse living at the time of marriage. Here petitioner No. 1 Seema Devi Shakya is said to have parted ways with her first husband Sukhbir Singh Arora-respondent No.6 by means of Panchayat divorce. Such type of divorce is not legally permissible. There may be any reason like age difference and difference in temperament of the two spouses but without taking recourse to the legal means by filing petition under Section 13 of the Hindu Marriage Act, a marriage between a Hindu couple cannot be legally dissolved, therefore, the marriage between the petitioners cannot be termed as a valid marriage. Nonetheless, if someone has grouse against such marriage, he or she can certainly take recourse to law by challenging the marriage said to have been performed between the parties but nobody can be allowed to cause physical harm to them for such reason.

Therefore, the present criminal writ petition is disposed of directing respondent No. 2-Superintendent of Police, Jind, to look into the representation Annexure P-6, assess the threat perception to the petitioners and if he finds that some action in the matter is warranted, then the needful be done in accordance with law.

**(H.S. MADAAN)
JUDGE**

October 15, 2020

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Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No