

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

CRWP No.9180 of 2020 (O&M)
DATE OF DECISION: 06.11.2020

Komal Preet Kaur and another

.....Petitioners

versus

State of U.T. Chandigarh and others

.....Respondents

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Sudesh K. Khurcha, Advocate for the petitioners

..

ALKA SARIN, J. (Oral):

Heard through video conferencing.

The present Criminal Writ Petition has been filed under Article 226/227 of the Constitution of India for enforcement of the fundamental rights of the petitioners *viz.* for protection of their life and liberty under Article 21 of the Constitution of India.

In brief, the relevant facts are that both the petitioners in the present case are major, the date of birth of petitioner No.1 being 12.06.1999 and that of petitioner No.2 being 16.09.2001. The Aadhar Cards of both the petitioners are attached as Annexures P/1 and P/2, respectively. The petitioners are stated to be in a live-in-relationship from 01.11.2020. It is further the case of the petitioners that respondent Nos.4 and 5 are against their live-in-relationship and, hence, they fear for their life and liberty at the hands of the private respondents. The petitioners are also stated to have filed a representation (Annexure P-4) to the Senior Superintendent of Police, Chandigarh on 02.11.2020 seeking protection of their life and liberty. However, no action has been taken on the said representation till date.

Notice of motion.

On the asking of the Court, Ms. Ashima Mor, APP for Union Territory, Chandigarh has joined the session through video conferencing (VC) and accepts notice on behalf of respondent Nos.1 to 3. Mr. Mukesh Kumar Bhatnagar, Advocate, who has also put in appearance through VC, accepts notice for respondent Nos.4 and 5.

Learned counsel for the private respondents has contended that petitioner No.2 is not of marriageable age. However, he is not in a position to deny that petitioner No.1, who is daughter of respondent No.4, and petitioner No.2 are both majors. Learned counsel for the respondent Nos.4 and 5 has further contended that the respondents are opposed to the live-in-relationship since the petitioners are not earning anything. However, in the same breath, the learned counsel for the respondents has stated that both the petitioners are working in a salon in Chandigarh.

In the present case, this Court, without expressing any opinion on the validity of the relationship of the petitioners, is required to consider whether the apprehension of the petitioners needs to be addressed. Petitioner No.1, in the present case, is 21 years of age and is a major. She is well within her right to decide for herself what is good for her and what is not. She has decided to take a step to be in a live-in-relationship with petitioner No.2, who is also major, though may not be of a marriageable age. Be that as it may, the fact remains that both the petitioners in the present case are major and have a right to live their life on their own terms. The objections raised by learned counsel for the respondent Nos.4 and 5, qua the live-in-relationship that the petitioners are in, are neither here nor there. No cogent reasons have been given as to why there could plausibly be any objection to the live-in-relationship of the petitioners. The private respondent Nos.4 and

5 being mother and brother of petitioner No.1, who is a major, cannot dictate to petitioner No.1 how and with whom she chooses to spend her life. Parents cannot compel a child to live a life on their terms. Every adult individual has a right to live his or her life as he or she deems fit. Khalil Gibran very aptly describes the relationship of a parent and a child in the following words:-

“Your children are not your children.

They are the sons and daughters of Life’s longing for itself.

They come through you but not from you,

And though they are with you yet they belong not to you.

You may give them your love but not your thoughts,

For they have their own thoughts.

You may house their bodies but not their souls,

For their souls dwell in the house of tomorrow,

which you cannot visit, not even in your dreams”

The petitioners are both major and have every right to live their lives as they desire within the four corners of the law. Society cannot determine how an individual should live her or his life. The Constitution of India guarantees every individual the right to life, and the choice of a partner is an important facet of the right to life. In the matter of ***Shafin Jahan vs. Asokan K.M., (2018) 16 SCC 368***, the Supreme Court reiterated the right of choice of an adult. It was *inter alia* held:-

“86. The right to marry a person of one's choice is integral to Article 21 of the Constitution. The Constitution guarantees the right to life. This right cannot be taken away except through a law which is substantively and procedurally fair,

just and reasonable. Intrinsic to the liberty which the Constitution guarantees as a fundamental right is the ability of each individual to take decisions on matters central to the pursuit of happiness. Matters of belief and faith, including whether to believe are at the core of constitutional liberty. The Constitution exists for believers as well as for agnostics. The Constitution protects the ability of each individual to pursue a way of life or faith to which she or he seeks to adhere. Matters of dress and of food, of ideas and ideologies, of love and partnership are within the central aspects of identity. The law may regulate (subject to constitutional compliance) the conditions of a valid marriage, as it may regulate the situations in which a marital tie can be ended or annulled. These remedies are available to parties to a marriage for it is they who decide best on whether they should accept each other into a marital tie or continue in that relationship. Society has no role to play in determining our choice of partners.”

The petitioners are seeking protection of their life and liberty as envisaged under Article 21 of the Constitution of India. Article 21 of the Constitution of India provides for protection of life and personal liberty and further lays down that no person shall be deprived of his or her personal liberty except as per the procedure established by law. No doubt petitioner No.2 is not of marriageable age. However, admittedly, he is a major. Merely because of the fact that petitioner No.2 is not of a marriageable age the

petitioners cannot possibly be denied enforcement of their fundamental rights as envisaged under Article 21 of the Constitution of India. The petitioners, both being major, have decided to live together in a live-in relationship and there possibly cannot be any reason for the respondents to object to the same.

In view of the above and without expressing any opinion with regard to the veracity of the contents of the petition and the submissions made by learned counsel for the petitioners, the present petition is disposed off with a direction to the Senior Superintendent of Police, Chandigarh (respondent No.2) to decide the representation dated 02.11.2020 (Annexure P-4) and take necessary action as per law.

It is, however, made clear that any observations made above shall neither be treated as a stamp of this Court qua the relationship between the petitioners nor as an opinion on the contentions raised in the present petition and also shall have no effect on any other civil or criminal proceedings, if any, instituted/pending against them.

Disposed off accordingly.

**(ALKA SARIN)
JUDGE**

06.11.2020

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NOTE:

Whether speaking/non-speaking: Speaking

Whether reportable: YES/NO