

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

-.-
CRWP-10665-2020 (O&M)
Date of decision : 21.12.2020.

Nisha and Another

.....Petitioners

Vs.

The State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Vivek Goyal, 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 right of the petitioners seeking protection of their life and liberty as enshrined under Article 21 of the Constitution of India.

In brief the relevant facts, as narrated in the petition, are that both the petitioners are major, though petitioner No.2 is not of marriageable age. In support of age-proof, the Birth Certificate of petitioner No.1 and the Aadhaar Card of petitioner No.2 have been annexed with the petition as Annexures P-1 and P-2, respectively. It is further stated that both the petitioners were in love with each other and wanted to solemnize their marriage. However, since the family members of petitioner No.1 were pressurizing her to perform marriage with a person of their choice, the petitioner No.1 ran away from her parental home and started living with petitioner No.2 in a live-in relationship since petitioner No.2 has not attained marriageable age.

Learned counsel for the petitioners contends that the petitioners are apprehending danger to their life and liberty as well as their false implication in some criminal case at the hands of the private respondents. The petitioners also sent a representation dated 14.12.2020 (Annexure P-3) to the Commissioner of Police, Panchkula (respondent No.2). However, no action has been taken thereon.

Notice of motion.

On the asking of the Court, Mr. Naveen Singh Panwar, Deputy Advocate General, Haryana has joined the session through video conferencing and accepts notice on behalf of respondent Nos.1 to 3.

Heard learned counsel for the parties.

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 more than 19 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 a major, though not 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 private respondents, who are family members 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. The petitioners are both major and have every right to live their lives as they desire within the four corners of the

law. The 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 Commissioner of Police, Panchkula (respondent No.2) is directed to decide the representation dated 14.12.2020 (Annexure P-3) 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.

December 21, 2020
tripti

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Yes/No
 Whether reportable: Yes/No