

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

CRM-M-10842-2020 (O&M)

Date of decision : 23.12.2020

AMRIT SINGH AND ANOTHER

... Petitioner(s)

Versus

THE STATE OF PUNJAB AND OTHERS

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Lakhwinder Singh Lakhanpal, Advocate
for the petitioners.

Mr. V. G. Jauhar, Senior DAG, Punjab.

Mr. Mohinder Singh Joshi, Advocate
for the private respondents.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

The present criminal writ petition has been filed under Article 226 of the Constitution of India for issuance of directions to respondent Nos.1 to 3 to protect the life and liberty of the petitioners as enshrined under Article 21 of the Constitution of India at the hands of respondent Nos.4 to 6.

The averments as set out in the petition are that petitioner No.1 is aged 20 years and petitioner No.2 is aged 18 years. Both the petitioners are major. However, petitioner No.1 is not of marriageable age. The date of birth of petitioner No.1 is 25.04.2001 and that of petitioner No.2 is 12.09.2002 as per their age-proofs (Aadhaar Cards, Annexures P-1 and P-2). Learned counsel for the petitioners has contended that when the petitioners disclosed their intention to marry each other, the parents of petitioner No.2 did not agree to the marriage

and threatened petitioner No.2 and in fact they started making efforts to marry her somewhere else in a hasty manner and also performed *ChunniChadhava* during the lockdown period. In view of the threats being received by the petitioner No.2 she left her home on 20.12.2020 and joined the company of petitioner No.1. The petitioners are since living in a live-in-relationship and now apprehend danger to their life and liberty. It is further contended that the petitioners have also filed a representation dated 21.12.2020 (Annexure P-3) before the Senior Superintendent of Police, SBS Nagar, Nawanshahar, Punjab (respondent No.2). However, no action has been taken thereon. Learned counsel for the petitioners further contends that petitioners at this stage would be satisfied if a direction is issued to the official respondents to decide the said representation dated 21.12.2020 (Annexure P-3) in accordance with law.

Notice of motion.

On the asking of the Court, Mr. V.G. Jauhar, Senior DAG, Punjab has joined the session through video conferencing and accepts notice on behalf of respondent Nos.1 to 3. Mr. Mohinder Singh Joshi, Advocate accepts notice on behalf of respondent No.5, father of petitioner No.2, and has stated that he understands that the petitioners are major and have every right to live their life on their own terms. He further states that respondent No.5 be given one opportunity to meet petitioner No.2 so that he could try and resolve the matter and counsel her, if required.

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.2 in the present case is more than 18 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.1 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 private respondent Nos.4 to 6 being family members of petitioner No.2, who is a major, cannot dictate to petitioner No.2 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.1 is not of marriageable age, however, admittedly, he is a major. Merely because of the fact that petitioner No.1 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 may not be any legally justifiable 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 Senior Superintendent of Police, SBS Nagar, Nawanshahar, Punjab (respondent No.2) is directed to decide the representation dated 21.12.2020 (Annexure P-3) and, before disposing off the said

representation, an opportunity be given to respondent No.5 to meet his daughter, petitioner No.2, in the presence of a lady constable.

It is, however, made clear that this order shall neither be construed as an expression of opinion on the veracity of the contents of the present petition nor as a stamp of this Court on the validity of the alleged live-inrelationship of the petitioners and shall have no effect on any other civil or criminal proceedings, if any, instituted/pending against them.

Disposed off accordingly.

December 23, 2020

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**(ALKA SARIN)
JUDGE**

**NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO**