

CRWP-69-2021

Date of Decision: 06.01.2021.

Priyanka and another

...Petitioners

vs.

State of Punjab and others

...Respondents

Coram : Hon'ble Mr. Justice B.S. Walia.

Present: Mr. Anoop Verma, Advocate for the petitioners.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to the outbreak of Covid-19 pandemic.

2. Prayer in the petition under Articles 226/227 of the Constitution of India is for the issuance of a writ in the nature of Mandamus for directing respondent Nos.1 to 3 to protect the life, liberty and dignity of the petitioners at the hands of respondent Nos.4 to 7 with a further prayer to direct respondent Nos.4 to 7 not to harass or interfere in the peaceful life of the petitioners or to intrude into the privacy of the petitioners.

3. Learned counsel contends that the petitioners seek protection against threats held out by respondent Nos.4 to 7 to cause harm to their life and personal liberty on account of their staying together out of their free will, without any force, fraud or coercion though against the wishes of respondent Nos.4 to 7. Learned counsel contends that date of birth of

Annexure P/2 is 26.11.2001 i.e. 19 years and 1 month while the date of birth of petitioner No.2, as per matric certificate Annexure P/4 and Voter ID Card Annexure P/5, is 17.03.2000. Copy of Aadhaar Card reflecting the year of birth of petitioner No.2 is attached as Annexure P/3. On the basis of the same, learned counsel contends that petitioner No.2 is 20 years and 9 months of age and on account of being a few months short of marriageable age, the petitioners on account of mutual liking for each other started residing together out of their free will, without any force, fraud or coercion, though against the wishes of respondent Nos.4 to 7, so as to get married, on petitioner No.2 attaining the age of marriage.

4. Learned counsel contends that the petitioners have submitted representation Annexure P/6 dated 03.01.2021 to respondent No.2 i.e. Senior Superintendent of Police, District Jalandhar Rural, for protection of their life and liberty but no action has been taken in respect thereto till date and that in the circumstances, the petitioners would be satisfied if the criminal writ petition is disposed of by directing respondent No.2 to consider and decide the aforementioned representation and take action on the same in accordance with law, in a time bound manner, in view of the decision of Hon'ble the Supreme Court in **Nandakumar and another vs. State of Kerala and others 2018(2) RCR(Civil) 899.** Relevant extract of the same is reproduced as under:-

“9. We need not go into this aspect in detail. For our purposes, it is sufficient to note that both appellant No. 1 and Thushara are major. Even if they were not competent to enter into wedlock (which position itself is disputed), they have right to live together even outside wedlock. It would not be out of place to mention that 'live-in relationship' is now recognized by

the Legislature itself which has found its place under the provisions of the Protection of Women from Domestic Violence Act, 2005.

10 to 13 xxx xxx xxx

14. Accordingly, we allow this appeal and set aside the impugned judgment of the High Court. However, since Thushara has not appeared as she was not made party in these proceedings, while setting aside the directions of the High Court entrusting the custody of Thushara to respondent No. 4, we make it clear that the freedom of choice would be of Thushara as to with whom she wants to live.”

5. Notice of motion to respondent No.2 only.

6. Mr. Hittan Nehra, Addl. AG, Punjab, accepts notice on behalf of respondent No.2 and after perusal of the advance copy of the petition states that he has no objection to the limited prayer made by learned counsel for the petitioners. At this stage, learned Addl. AG, Punjab, points out that although representation Annexure P/6 dated 03.01.2021, has been submitted to the Senior Superintendent of Police, District Jalandhar Rural, yet the petitioner has impleaded Senior Superintendent of Police, Jalandhar, as respondent No.2 but there is no post of Senior Superintendent of Police, Jalandhar.

7. Faced with the aforementioned position, learned counsel for the petitioners states that full particulars of respondent No. 2 have inadvertently not been typed and he may be permitted to incorporate the word ‘rural’ against the name of respondent No.2 i.e. Senior Superintendent of Police, Jalandhar.

8. In view of the objection raised by learned State Counsel and the request made by learned counsel for the petitioners, the counsel for the petitioners is permitted to make necessary changes against the name of respondent No.2 so as to add word 'rural' after the words Senior Superintendent of Police, Jalandhar. Registry to make necessary changes in the case title.

9. Accordingly, in view of the decision of Hon'ble the Supreme Court in 'Nandakumar's case (*supra*) but without commenting upon the age of the petitioners, validity of their relationship or the authenticity of the documents attached with the petition, the criminal writ petition is ***disposed of*** by directing respondent No.2 i.e. Senior Superintendent of Police, District Jalandhar Rural, to consider and decide representation, Annexure P/6 dated 03.01.2021 submitted by the petitioners after taking into account all aspects of the matter, as expeditiously as possible and thereafter take such action in respect thereto in accordance with law as may be warranted keeping in view the threat perception to the petitioners. However, it is made clear that this order shall not bar any civil or criminal proceedings initiated against the petitioners in accordance with law.

(B.S. Walia)
Judge

06.01.2021

'Rajesh-PS'

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