

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

201

CRWP-128 of 2021

Date of Decision: 24.02.2021

Amarjit Singh and another

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Prashant Vashisth, Advocate,
for the petitioners.

Mr. Bhupinder Beniwal, AAG, Punjab.

AMOL RATTAN SINGH, J. (ORAL)

On 08.01.2021, the following order had been passed by this court:-

“By this petition, the petitioners seek protection of life and liberty at the hands of respondents no.4 and 5.

Learned counsel for the petitioners submits that though the petitioners are not married to each other, however, they are seeking protection of their life and liberty, they being in a live-in relationship, with both of them being of the age of majority, the age of petitioner no.1 being 20 years even as per the Matriculation Examination Certificate issued by the Punjab School Education Board (copy Annexure P-1), wherein his date of birth is shown to be 10.12.2000. As regards petitioner no.2, he relies upon a copy of a certificate (Annexure P-2), which is stated to have been issued by an Auxiliary Nurse and Midwife

(ANM), Sarika Ward, Primary Health Centre, Chaderganj/Kharima, Lucknow (as contended), with him further submitting that though the date is not given, it was issued on the date that petitioner no.2 was born, i.e. September 04, 2002.

Without making any comment whatsoever on the correctness of the age of either of the petitioners, especially petitioner no.2, with the said certificate not being any firm proof of her actual age, notice of motion is issued, with Ms. Monika Jalota, learned DAG, Punjab, accepting notice on behalf of the respondent State, at the asking of the court.

Respondent no.4 and 5 be served by way of normal process, with the notices to be returnable on 24.02.2021.

Respondents no.2 and 3 are directed to ensure that the lives and liberty of the petitioners are not put to any harm or threat at the hands of the aforesaid respondents, or at their behest.

A gazetted officer is directed to have the matter enquired into as regards the age of both the petitioners, with obviously the concerned officer in Lucknow to be contacted by the DCP concerned in Ludhiana, to determine from the parents of petitioner no.2, i.e. respondents no.4 and 5, as to her correct age, on the basis of valid documents, i.e. either from the school that she last attended, or in the alternative, the Registrar, Births and Deaths concerned.

Naturally, if the age of petitioner no.2 is found to be less than 18 years of age, then a live-in relationship with a minor would not be acceptable; though of course, having said that, the life of the petitioners shall continue to be protected, such protection being a basic fundamental right enshrined in Article 21 of the Constitution of India.

*If any FIR has been lodged at the instance of respondents no.4 and 5 at Lucknow, or any other place, as regards petitioner no.2 having gone missing from her home *etcetera*, it is made clear that such proceedings are not being stayed by this court till the actual date of birth of the petitioners is determined as directed herein above.*

However, till the next date of hearing before this court, the petitioners be not arrested.

It is made clear that any request for an adjournment made on that of hearing by counsel for the petitioner on any ground whatsoever, would entail vacation of the interim order passed, with no further order required to be passed in that regard.”

In response to the directions issued by this court, an affidavit of the ACP (East) Ludhiana, dated 17.02.2021, has been filed, which is ordered to be taken on record.

Mr. Beniwal, learned AAG, Punjab, points to Annexure R-4/T with the said affidavit, which is seen to be a copy of a certificate-cum-mark sheet issued by the Board of High School and Intermediate Education, U.P., on June 27, 2020 at Prayagraj, showing therein the date of birth of petitioner no.2, Salma Bano, to be 04.09.2004. Thus, even today she is not even 17 years of age, and would be 16 years and five months old.

That being so, with the petitioners admittedly not having even performed a marriage and stated to be in a live-in-relationship, and the age of petitioner no.2 having been therefore falsely given to be 18 years, she cannot be stated to have gone with petitioner no.1 to live with him in any case with the consent of her parents (guardians), and consequently, other than protection of life, which obviously is a fundamental right enshrined in Article 21 of the Constitution of India, no protection from the process of law is stayed by this court.

It is also to be noticed that despite notice of motion ordered to have been issued to respondents no.3 and 4, i.e. the parents of petitioner no.2, on 08.01.2021, as per the report of the Registry even the process fee was not filed by the counsel for the petitioners so as to ensure that notices could be issued to them to enable them to appear before this court and make whatever contentions that they

wishes to.

Consequently, while directing that the life of the petitioners would obviously remain protected, this petition is dismissed, with any proceedings initiated qua any criminal case registered, to continue as per law.

February 24, 2021
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No