

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

CRWP No.328 of 2021 (O&M)
DATE OF DECISION: 13.01.2021

Pooja Rani and another

.....Petitioners

versus

State of Punjab and others

.....Respondents

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Chander Shekher Singhal, Advocate for the petitioners

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ALKA SARIN, J. (Oral):

Heard through video conferencing.

The present Criminal Writ Petition under Article 226/227 of the Constitution of India has been filed for enforcement of fundamental rights of the petitioners as enshrined under Article 21 of the Constitution by issuing directions to the official respondents to protect the life and liberty of the petitioners.

The petitioner No.1, namely, Pooja Rani is about 20 years of age, her date of birth being 26.10.2000 (copy of her Aadhaar Card has been annexed as Annexure P-1). The age of petitioner No.2, namely, Pankaj is also more than 20 years, his date of birth being 01.01.2001 (copy of his Aadhaar Card has been annexed as Annexure P-2). The petitioners are in a live-in relationship and intend to solemnize their marriage once petitioner No.2 attains the marriageable age. The further averments in the petition are that the parents of petitioner No.1 are greedy people and they wanted to marry petitioner No.1 to an old-aged person. It has further been averred that respondent Nos.4 to 8 had been harassing petitioner No.1 physically

and mentally and are threatening both the petitioners with dire consequences. The petitioners have now chosen to be in a live-in relationship. Apprehending danger to their life and liberty, the petitioners have made a representation dated 07.01.2021 to respondent No.2 to provide them security, however, no action has been taken.

The learned counsel for the petitioners would contend that the petitioners apprehend danger to their life and liberty at the hands of respondent Nos.4 to 8. However, at this stage, the petitioners would be satisfied if a direction is given to respondent No.2 to decide the representation dated 07.01.2021 (Annexure P-3) submitted by them in a time-bound manner.

Notice of motion to the official respondents only. In view of the limited prayer made by learned counsel for the petitioners, the service on the remaining respondents is dispensed with.

On the asking of the Court, Mr. V.G. Jauhar, Senior Deputy Advocate General, Punjab has joined the session through video conferencing and accepts notice on behalf of respondent Nos.1 to 3.

In the present case there is an apprehension which has been expressed by the petitioners which needs to be addressed. Petitioner No.2 is not of marriageable age, however, has attained the age of majority. Both the petitioners, who are otherwise major, have taken a step to be in a live-in relationship. However, it appears that the relationship is not acceptable to the private respondents and they have been threatening the petitioners.

In the present case, this Court, without expressing any opinion regarding 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 being major has decided to be in a live-in relationship with

petitioner No.2 who is also major, though may not be of marriageable age. Be that as it may, the fact remains that both the petitioners are major and have decided to live their lives on their own terms. The private respondents cannot dictate petitioner No.1 as to how and with whom she chooses to spend her life. The 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:-

“76. 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 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 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, Fazilka (respondent No.2) is directed to decide the representation dated 07.01.2021 (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.

(ALKA SARIN)
JUDGE

13.01.2021
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NOTE:

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