

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

**CRWP-2421-2021
Date of Decision : 10.03.2021**

Moyna Khatun and another

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Sushil K. Sharma, Advocate
for the petitioners.

ARVIND SINGH SANGWAN, J. (Oral)

The present petition is filed under Article 226 of the Constitution of India for issuance of direction to official respondents to protect the life and liberty of the petitioners at the hands of the private respondents.

Learned counsel for the petitioners submits that petitioner No.1 namely Moyana Khatun is aged about 18 years (D.O.B. 01.01.2003), whereas, petitioner No.2 namely Labh Singh is aged about 19 years (D.O.B. 16.03.2002) and in pursuance to a deed of Live-In-Relationship dated 04.03.2021, is executed between the petitioners, wherein, petitioner No.1 is referred to as the 'Female Partner' and petitioner No.2 is referred to as the 'Male Partner', certain terms and conditions have been settled in the said deed of live-in-relationship by way of mutual consent.

Interestingly, by way of innovation a new concept of contractual Live-In-Relation is developed as in para 1 of the said deed, it is stated that both the parties have agreed that their live-in-relationship is not ‘**Marital Relationship**’ and in para 5 it is stated that the parties will fully cooperate with each other without any dispute and issue and will not claim anything against each other.

Further, in para 6 it is stated that if any of the parties backs out from the aforesaid deed, the other party will have a right to approach a competent Court of law for implementation of the same.

In para 7 of this deed, it is stated that the parties are entitled and will be at liberty to terminate this deed any time after giving one month’s notice to other party.

However, in the end, it is stated that on attaining marriageable age the parties agree to solemnize marriage.

Learned counsel for the petitioners further submits that this live-in-relationship deed was executed between the parties at Patiala in presence of witnesses though neither the original deed is attached nor names of the witnesses are described. Only typed copy signed as true copy by the learned counsel is attached.

Learned counsel for the petitioners has relied upon two judgments passed by this Court in *CRM-M-13953-2015* titled as *Sukhbir Singh and another versus State of Punjab and others* and *CRM-M-28467-2017* titled as *Simran Kaur and another versus State of Punjab and others*, respectively, wherein, the petitions relating to live-in-relationship couples were disposed of with a direction to the Senior Superintendent of Police concerned to look into the

grievance of the petitioners without having any reference to their so called relationship. However in these cases, the parties were of marriageable age.

Notice of motion.

Mr. Joginder Pal Ratra, DAG, Punjab, who is also appearing through video conferencing, accepts notice on behalf of the respondent-State and opposes the prayer on the ground that such deed of live-in-relationship is impermissible in law when the parties have not attained the age of performing marriage under the Prohibition of Child Marriage Act, 2006.

It is further submitted that even Section 5 (iii) of the Hindu Marriage Act, 1955 prohibits marriage of a girl below 18 years and boy below 21 years of age. The counsel further submits that under Section 18 of the Act even punishment for two years is provided for contravention of Section 5 (iii) of the Act.

Learned State counsel further submits that Section 26 of the Indian Contract Act, 1872, also provides that an agreement in restraint of marriage is a void agreement and therefore, it cannot be enforced as per Section 14 of the Specific Relief Act, 1963. It is thus, submitted that the Live-In-Relationship agreement set up by petitioners being void agreement cannot be accepted.

Since such type of deed is not permissible in law, no benefit can be claimed by the petitioners. Even otherwise, under the provisions of the Prohibition of Child Marriage Act, 2006, petitioner No.2 is not competent to perform marriage and as such he is not competent to have a live-in-relationship with petitioner No.1 as he has not attained the age of marriage.

After hearing learned counsel for the parties, I find no merit in the present petition as the terms and conditions of live-in-relationship relied upon by the petitioners referred to above, especially stating that it is not a 'Marital

Relationship’ is nothing but the misuse of the process of law as it cannot be morally accepted in society.

Accordingly, the present petition is dismissed.

10.03.2021

Waseem/Chetan

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No