

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**CRWP No. 4274 of 2021
Date of Decision: 12.05.2021**

Harmandeep Singh and another

....Petitioners

VERSUS

State of Punjab and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Imran Farooqi, Advocate for the petitioners.

ALKA SARIN, J. (Oral)

Heard through video conferencing.

The present criminal writ petition has been filed under Articles 226/227 of the Constitution of India for enforcement of fundamental right of the petitioners seeking protection of their life and liberty as enshrined under Article 21 of the Constitution of India.

In brief, the facts relevant to the present case are that petitioner no.1 is aged more than 18 years and petitioner no.2 is aged 24 years and 3 months. Both the petitioners have been in a relationship for about a year. It is alleged that respondent nos.4 to 6, who are the parents and brother of petitioner no.2, being conservative, orthodox and fanatic, are opposed to the relationship of the petitioners and are threatening to kill them. Since the private respondents are threatening to eliminate the petitioners, the petitioners have submitted a representation dated 26.04.2021 (Annexure P-3) to the Senior Superintendent of Police, Police District Khanna (respondent No.2). However, no action has been taken thereon. Learned counsel for the petitioners would further contend that at this stage he limits his prayer and

would be satisfied if a direction is issued to respondent no.2 to decide their representation dated 26.04.2021 (Annexure P-3).

Notice of motion.

On the asking of the Court, Ms. Bhavna Gupta, DAG Punjab, who has joined the session through video conferencing, accepts notice on behalf of respondent nos.1 to 3. Since the case is not being decided on merits, the service of notices upon the private respondents is dispensed with.

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.1 in the present case is more than 18 years of age and is a major. Petitioner no.2 is about 24 years of age and 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, though a major, may not be of 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, who are the parents and brother of petitioner no.2, cannot dictate to petitioner no.2 as to how and with whom she chooses to spend her life. Parents cannot compel a child to live a life on their own 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 his or her 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 in the present case are seeking the protection of their life and liberty as enshrined under Article 21 of the Constitution of

India. Article 21 of the Constitution of India provides that no person shall be deprived of his or her personal liberty except as per procedure established by law. The Court is mindful of the fact that petitioner no.1 is not of marriageable age. However, he is a major. As per the Aadhaar Card, annexed with the petition as Annexure P-1, the date of birth of petitioner no.1 is 23.12.2002. Both the petitioners being major have taken a step together to be in a live-in-relationship and there possibly cannot be any legally justifiable reasons for the private 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, Police District Khanna (respondent No.2) is directed to decide the representation dated 26.04.2021 (Annexure P-3) and take necessary action as per law.

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

Disposed off accordingly.

**(ALKA SARIN)
JUDGE**

12th May, 2021
jk

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