

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

(Heard through VC)

CRWP No.4533 of 2021 (O&M)
Date of Decision: May 18, 2021

Soniya and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Ms. Manpreet Kaur, Advocate
for the petitioners.

JAISHREE THAKUR, J. (Oral)

1. The petitioners, having attained the age of 18, are seeking protection of their life and liberty at the hands of the private respondents, who are none other than the immediate family members of petitioner No. 1.
2. In brief the facts as stated are, that Ms. Soniya, petitioner No. 1 is aged 22 years 4 months with her date of birth being 01.01.1998, whereas Mr. Anil, petitioner No. 2 is younger and is 19 years 6 months old, with his date of birth being 26.09.2001. The parents of petitioner No. 1 wanted her to marry a person of their choice and threatened her with dire consequences in case she did not do so. Petitioner No. 1 left her paternal home and called upon petitioner No. 2 (whom she had known for the past one year) to save her from her parents, who wanted her to get married to a person who was

much older in age. Petitioner No. 2 requested her to go back, but being fearful for her life and that she would be forcibly married to a person much older than her, she refused to do so. Consequently, she shifted in with petitioner No. 2. The petitioners decided to live together till such time as they could solemnise a marriage, i.e. on petitioner No. 2 attaining the age of 21. It is also stated that the relationship would never be accepted by the private respondents, as both belong to different castes. Petitioner No.1 belongs to Kashyap caste whereas petitioner No. 2 belongs to a Rabari caste. The petitioners have already approached the SP, Karnal vide a representation dated 12.05.2021 (Annexure P-3) seeking protection at the hands of the private respondents, but there has been no response. Fearing a threat to their life, as the relationship was not acceptable to the parents and family members of petitioner No. 1 have threatened to kill the petitioners, the instant criminal writ petition has been preferred.

3. Notice of motion to the official respondents only.

4. Mr. Vishal Kashyap, AAG Haryana, who is appearing through the medium of video conferencing, accepts notice on behalf of the official respondents-State and submits that the couple seeking protection are not married and according to their own pleadings are in a live in relationship. He would submit that the Coordinate Benches have recently dismissed similar matters, where protection was sought by persons who are in live-in relationship.

5. I have heard the counsel for the parties and with their assistance have gone through the pleadings of the case.

6. The petitioners have approached this court under Article 226 of

Constitution of India seeking protection of their life and liberty at the hands of the private respondents, with a further prayer that they be restrained from interfering in the peaceful live-in relationship of the petitioners. The petitioners have not approached this court either seeking permission to marry or for approval of their relationship. The limited prayer as noted is for grant of protection to them, fearing the ire of family members of petitioner No.1, on account of the parties belonging to a different caste and their decision to reside together without the sanctity of a valid marriage.

7. This Court in the past and also recently has allowed protection to those runaway couples, even though they were not married and were in a live-in relationship, and in cases where the marriage was invalid (as one of the parties though a major, was not of age as per Section 5 of the Hindu Marriage Act). Reference in this regard can be made to the judgment rendered by the Division Bench in ***Rajwinder Kaur and another Versus State of Punjab, 2014 (4) RCR (Criminal) 785*** where it was held that marriage is not a must for security to be provided to a runaway couple. The police authorities were directed to ensure that no harm was caused by any one to the life and liberty of the couple. Similar views have been taken by the Coordinate Benches in the matter ***Rajveer Kaur Versus State of Punjab, 2019 (3) RCR (Civil) 478*** and in ***Priyapreet Kaur Versus. State of Punjab, 2021 (1) RCR (Civil) 604*** amongst others. Different High Courts too have allowed protection to runaway couples who are not married. Again reference can be made to a recent judgement rendered by the Allahabad High Court in ***Kamini Devi vs. State of UP, 2021(1) RCR (Civil) 421*** and in ***Bhagwan Dass v. State (NCT of Delhi), (2011) 6 SCC 396.***

8. The concept of a live in relationship may not be acceptable to all, but it cannot be said that such a relationship is an illegal one or that living together without the sanctity of marriage constitutes an offence. Even under The Protection of Women from Domestic Violence Act, 2005, a woman who is in a '*domestic relationship*' has been provided protection, maintenance etc. It is interesting to note that the word '*wife*' has not been used under the said Act. Thus, the female live-in-partners and the children of live-in-couples have been accorded adequate protection by the Parliament.

9. Article 21 as enshrined in the Constitution of India provides for its citizen to a right to life and personal liberty, with a stipulation that they shall not be deprived of it except according to a procedure established by law. In the case of ***Shakti Vahini Versus Union of India and others, 2018 (5) R.C.R (Criminal) 981*** the Supreme court has held "*The right to exercise Assertion of choice is an insegregable facet of liberty and dignity. That is why the French philosopher and thinker, Simone Weil, has said:- "Liberty, taking the word in its concrete sense consists in the ability to choose."* At this stage, one cannot also lose sight of honour killings which are prevalent in northern parts of India, particularly in parts of States of Punjab, Haryana, Rajasthan and Uttar Pradesh. Honour killing is a result of people marrying without their family's acceptance, and sometimes for marrying outside their caste or religion. Once an individual, who is a major, has chosen his/her partner, it is not for any other person, be it a family member, to object and cause a hindrance to their peaceful existence. It is for the State at this juncture, to ensure their protection and their personal

liberty. It would be a travesty of justice in case protection is denied to persons who have opted to reside together without the sanctity of marriage, and such persons have to face dire consequences at the hands of persons from whom protection is sought. In case such a course is adopted and protection denied, the courts would also be failing in their duty to provide its citizens a right to their life and liberty as enshrined under Article 21 of the Constitution of India and to uphold to the Rule of law.

10. The petitioners herein, who are major, have taken a decision to reside together without the sanctity of marriage and it is not for the courts to judge them on their decision. The Supreme Court in a case rendered in *S. Khushboo v. Kanniammal, (2010) 5 SCC 600* has held that live in relationship is permissible and the act of two adults living together cannot be considered illegal or unlawful, while further holding that the issue of morality and criminality are not co-extensive. If the petitioners herein have not committed any offence, this court sees no reason as to why their prayer for grant of protection cannot be acceded to. Therefore, with due respect to the judgments rendered by the Coordinate Benches, who have denied protection to couples who are in live in relationship, this court is unable to adopt the same view.

11. Without entering upon an exercise to evaluate the evidentiary value of the documents placed on the file, I dispose of this petition with directions to respondent No.2 to decide the representation of the petitioners (Annexure P-3) within a period of one week from the date of receipt of a copy of this order and grant them protection, if any threat to their life and liberty is perceived. It is made clear that this order shall not be taken to

protect the petitioners from legal action for violation of law, if any committed by them.

May 18, 2021
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes