

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

(1)

CRM-M-23537-2020

Date of decision: 31.08.2021

Ravi Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

(2)

CRM-M-23805-2020

Date of decision: 31.08.2021

Sahab Ram

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Argued by: Mr. Aditya Sanghi, Advocate
for the petitioner in
CRM-M-23537-2020.

Mr. Vikas Bishnoi, Advocate
for the petitioner
in CRM-M-23805-2020.

Mr. Deepak Sabharwal, Addl. A.G., Haryana
for respondent No.1-State of Haryana in both cases.

Mr. P.S. Walia, Asstt. A.G., Punjab
for respondent No.2-State of Punjab
in CRM-M-23537-2020.

Mr. Amit Kumar Goyal, Addl. Public Prosecutor
for respondent No.3-U.T., Chandigarh
in CRM-M-23537-2020.

None for the complainant.

ARUN KUMAR TYAGI, J.

(The case has been taken up for hearing through video conferencing.)

1. Petitioner-Ravi Kumar has filed CRM-M-23537-2020 and petitioner-Sahab Ram has filed CRM-M-23805-2020 under Section 439 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for grant of regular bail in case FIR No.126 dated 01.06.2018 registered

under Sections 285 and 365 of the Indian Penal Code, 1860 (for short, "the IPC") and Section 25 of the Arms Act, 1959 at Police Station Bhattu Kalan, District Fatehabad to which Sections 148, 149, 364, 452, 302, 201 and 120-B of the IPC and Sections 27 and 30 of the Arms Act, 1959 were added and from which Section 365 of the IPC was deleted later on.

2. The above said FIR was registered on statement of complainant Rai Singh who alleged that his nephew Dharambir, who used to reside with him, brought a girl named Sunita with him about 2/3 days back and introduced her as his wife. On 01.06.2018 at about 02:00 P.M. 15/16 persons came in two vehicles and one of them fired gun shot in the air and they abducted his nephew Dharambir and his wife and took them away in their vehicles. He could identify them if brought before him. Sunita was recovered on 02.06.2018 and her statement was got recorded under Section 164 of the Cr.P.C. Dead body of Dharambir was recovered from Sidhmukh Canal in the area of Bhadra, Rajasthan on 03.06.2018. Supplementary statement of complainant Rai Singh was recorded on 04.06.2018. On investigation 15 persons were stated to be involved in the occurrence. Six of them namely Dharampal @ Jagar, Dalbir, Sahab Ram (the petitioner in CRM-M-23805-2020), Sarjit, Siri Ram and Ravi (the petitioner in CRM-M-23537-2020) were arrested and challan was presented against them on 01.09.2018.

3. The first two petitions filed by petitioner-Ravi Kumar before this Court for grant of regular bail were dismissed as withdrawn vide orders dated 22.04.2019 and 27.02.2020 respectively and the first

two petitions filed by petitioner-Sahab Ram before this Court for grant of regular bail were dismissed as withdrawn vide orders dated 07.02.2019 and 27.02.2020 respectively.

4. The present (third) petition filed by petitioner-Ravi Kumar has been opposed by the respondent-State in terms of reply filed by way of affidavit of Satender Kumar, HPS, Deputy Superintendent of Police, Traffic, Fatehabad. No reply has been filed to (third) petition filed by petitioner-Sahab Ram.

5. I have heard arguments addressed by learned Counsel for the petitioners, learned State Counsels for the States of Punjab and Haryana and learned Additional Public Prosecutor for U.T. Chandigarh have gone through the relevant record.

6. Mr. Aditya Sanghi, learned Counsel for petitioner-Ravi Kumar has submitted that the petitioner has been falsely implicated in the case. As per disclosure statements allegedly made by co-accused, Dalbir, Sunder, Balwant, Neki Ram, Sher Singh and Sahab Ram are alleged to have murdered Dharambir. Co-accused Dalbir and Sunder have been granted bail. Even as per the prosecution version the petitioner, who was present at the time of alleged abduction of Sunita and Dharambir, left before and was not present at the time of murder of Dharambir. The earlier petitions filed by the petitioner were merely dismissed as withdrawn and the present petition is maintainable in view of the change of circumstances. Substantial number of prosecution witnesses are yet to be examined in the case. The trial is likely to take long time due to number of prosecution witnesses to be examined and

restrictions imposed to prevent the spread of infection of Covid-19. Co-accused Shri Ram, Sarjeet @ Rawan, Bhanwar Singh, Vinod, Vikram, Ved Parkash, Biru Ram, Dalbeer, Sundar Lal and Dharampal @ Jagar have been granted regular bail. In view of parity with them the petitioner may also be granted regular bail and interim regular bail granted to him may be confirmed.

7. Mr. Vikas Bishnoi, learned Counsel for petitioner-Sahab Ram has submitted that petitioner-Sahab Ram has been falsely implicated in the case. As per the prosecution version, petitioner-Sahab Ram along with his co-accused abducted and murdered Dharambir but during test identification parade, petitioner Sahab Ram was not identified by complainant Rai Singh. All the co-accused except co-accused Ravi Kumar arrested in the case before filing of the petition by the petitioner have been granted bail. Substantial number of prosecution witnesses are yet to be examined in the case. The trial is likely to take long time due to number of the prosecution witnesses to be examined as well as the restrictions imposed to prevent the spread of infection of Covid-19. In view of parity with co-accused Shri Ram, Sarjeet @ Rawan, Bhanwar Singh, Vinod, Vikram, Ved Parkash, Biru Ram, Dalbeer, Sundar Lal and Dharampal @ Jagar who have been granted regular bail, the petitioner may be granted regular bail and interim regular bail granted to him may be made absolute.

8. On the other hand, Mr. Deepak Sabharwal, Addl. A.G., Haryana has submitted that the allegations made against the petitioners are very serious. The petitioners actively participated in murder of

Dharambir and thereby committed heinous offences. In view of the nature of accusation, gravity of offences, role attributed to the petitioners and evidence against them, the petitioners do not deserve grant of regular bail and the petition may be dismissed.

9. In the present case a perusal of the reply dated 30.09.2020 filed by Satender Kumar, HPS, Deputy Superintendent of Police, Traffic, Fatehabad shows that

- (i) Co-accused Shri Ram has been granted concession of regular bail by this Court vide order dated 11.12.2018.
- (ii) Co-accused named Sarjeet @ Rawan has been granted the concession of regular bail by Trial Court vide order dated 21.12.2018.
- (iii) Co-accused Bhanwar Singh was released on bail by Trial Court vide order dated 15.03.2019.
- (iv) Co-accused named Vinod has also been released on bail by Trial Court vide order dated 19.03.2019.
- (v) Co-accused Vikram has also been granted the concession of regular bail vide order dated 18.03.2019.
- (vi) Co-accused Ved Parkash has also been granted the concession of regular bail vide order dated 09.07.2019.
- (vii) Co-accused Biru Ram has been granted the concession of regular bail by this Court vide order dated 19.11.2019.
- (viii) Co-accused Dalbeer has been granted the concession of regular bail by this Court vide order dated 04.08.2020.
- (ix) Co-accused Sundar Lal has been granted concession of regular bail by this Court vide order dated 18.08.2020.
- (x) Co-accused Dharampal @ Jagar has been granted concession of regular bail by this Court vide order dated 18.08.2020.

10. In view of the facts and circumstances of the case, nature

of accusation and evidence against the petitioners, role attributed to them, period of their custody, parity with above said other co-accused who have been granted regular bail, the fact that the trial is likely to take time due to number of prosecution witnesses to be examined and due to restrictions imposed to prevent spread of infection of Covid-19, but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioners.

11. In view of the above, the petitions are allowed and interim regular bail granted to the petitioners is made absolute and the petitioners are ordered to be released on regular bail on the bail bonds already furnished by them.

12. Before parting with this case it may be observed that this Court, while noticing that the case involved allegations of honour killing of Dharambir by persons whose honour was allegedly subjected to disgrace by the deceased by performing marriage with their relative Sunita Rani (daughter of Sita Ram), observed in its order dated 26.10.2020 as under:

“Although this matter has come up before this Court for hearing on petition filed under Section 439 of the Cr.P.C. for grant of regular bail by petitioner-Ravi Kumar, one of the accused charge-sheeted by the police, limited to the question of grant of regular bail to the petitioner, yet the facts and circumstances of the case also call for interference by the Court in exercise of its powers under Section 482 of the Cr.P.C. to prevent abuse of process as well as for securing the ends of justice.”

13. The relevant judgments condemning violence against inter caste/inter religion marriages and honour killings and directions already issued by Hon'ble Supreme Court and this Court may be referred to first

before adverting to the disturbing features of the case and adumbrating upon the directions required to be issued for preventing abuse of process and securing ends of justice as referred to above.

14. ***Lata Singh Vs. State of U.P. and another (2006) 5 SCC 475*** was one of the initial cases which came up before the Hon'ble Supreme Court raising the issue of the right of a person to marry a person of his own choice irrespective of caste or religion. In the said case petitioner solemnized her marriage, with her own free will, with a person of another caste. The said marriage was strongly opposed by her brothers and they also committed violence upon her and her husband and also falsely implicated them. Condemning the same, Hon'ble Supreme Court observed as under:-

"17. The caste system is a curse on the nation and the sooner it is destroyed the better. In fact, it is dividing the nation at a time when we have to be united to face the challenges before the nation unitedly. Hence, inter-caste marriages are in fact in the national interest as they will result in destroying the caste system. However, disturbing news are coming from several parts of the country that young men and women who undergo inter-caste marriage, are threatened with violence, or violence is actually committed on them. In our opinion, such acts of violence or threats or harassment are wholly illegal and those who commit them must be severely punished. This is a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-caste or inter-religious marriage the maximum they can do is that they can cut off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or interreligious marriage. We, therefore, direct that the administration/police authorities throughout the country will see to it that if any boy or girl who is a major undergoes inter-caste or interreligious marriage with a woman or man who is a major, the couple are not harassed by anyone nor subjected to threats or acts of

violence, and anyone who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law.

18. We sometimes hear of 'honour' killings of such persons who undergo inter-caste or inter-religious marriage of their own free will. There is nothing honourable in such killings, and in fact they are nothing but barbaric and shameful acts of murder committed by brutal, feudal minded persons who deserve harsh punishment. Only in this way can we stamp out such acts of barbarism. "

15. In ***Bhagwan Dass vs. State (NCT) of Delhi (SC): 2011 (2)***

R.C.R. (Criminal) 920, Hon'ble Supreme Court observed as under:-

*"9. Many people feel that they are dishonoured by the behaviour of the young man/woman, who is related to them or belonging to their caste because he/she is marrying against their wish or having an affair with someone, and hence they take the law into their own hands and kill or physically assault such person or commit some other atrocities on them. We have held in **Lata Singh Vs. State of U.P. & Anr., 2006(3) R.C.R.(Criminal) 870 : 2006(3) R.C.R.(Civil) 738 : 2006(2) Apex Criminal 670 : (2006)5 SCC 475**, that this is wholly illegal. If someone is not happy with the behaviour of his daughter or other person, who is his relation or of his caste, the maximum he can do is to cut off social relations with her/him, but he cannot take the law into his own hands by committing violence or giving threats of violence."*

16. In that case Hon'ble Supreme Court further observed as under:-

"22. Before parting with this case we would like to state that 'honour' killings have become commonplace in many parts of the country, particularly in Haryana, western U.P., and Rajasthan. Often young couples who fall in love have to seek shelter in the police lines or protection homes, to avoid the wrath of kangaroo courts. We have held in Lata Singh's case (supra) that there is nothing 'honourable' in 'honour' killings, and they are nothing but barbaric and brutal murders by bigoted, persons with feudal minds.

23. In our opinion honour killings, for whatever reason,

come within the category of rarest of rare cases deserving death punishment. It is time to stamp out these barbaric, feudal practices which are a slur on our nation. This is necessary as a deterrent for such outrageous, uncivilized behaviour. All persons who are planning to perpetrate 'honour' killings should know that the gallows await them."

17. In ***Shakti Vahini Vs. Union of India and others, (2018) 7 SCC 192***, Hon'ble Supreme Court directed taking of preventing, remedial and punitive measures to prevent honour killings and diktats of khap panchayats. The relevant paragraph of its judgment is reproduced as under:-

"53. Mr. Raju Ramachandran, learned senior counsel being assisted by Mr. Gaurav Agarwal, has filed certain suggestions for issuing guidelines. The Union of India has also given certain suggestions to be taken into account till the legislation is made. To meet the challenges of the agonising effect of honour crime, we think that there has to be preventive, remedial and punitive measures and, accordingly, we state the broad contours and the modalities with liberty to the executive and the police administration of the concerned States to add further measures to evolve a robust mechanism for the stated purposes.

I. Preventive Steps:-

(a) The State Governments should forthwith identify Districts, Sub-Divisions and/or Villages where instances of honour killing or assembly of Khap Panchayats have been reported in the recent past, e.g., in the last five years.

(b) The Secretary, Home Department of the concerned States shall issue directives/advisories to the Superintendent of Police of the concerned Districts for ensuring that the Officer Incharge of the Police Stations of the identified areas are extra cautious if any instance of inter-caste or inter- religious marriage within their jurisdiction comes to their notice.

(c) If information about any proposed gathering of a Khap Panchayat comes to the knowledge of any police officer or any officer of the District Administration, he shall forthwith inform his immediate superior officer and also simultaneously intimate the jurisdictional Deputy Superintendent of Police and Superintendent of Police.

(d) On receiving such information, the Deputy Superintendent of Police (or such senior police officer as identified by the State Governments with respect to the area/district) shall immediately interact with the members of the Khap Panchayat and impress upon them that convening of such meeting/gathering is not permissible in law and to eschew from going ahead with such a meeting. Additionally, he should issue appropriate directions to the Officer Incharge of the jurisdictional Police Station to be vigilant and, if necessary, to deploy adequate police force for prevention of assembly of the proposed gathering.

(e) Despite taking such measures, if the meeting is conducted, the Deputy Superintendent of Police shall personally remain present during the meeting and impress upon the assembly that no decision can be taken to cause any harm to the couple or the family members of the couple, failing which each one participating in the meeting besides the organisers would be personally liable for criminal prosecution. He shall also ensure that video recording of the discussion and participation of the members of the assembly is done on the basis of which the law enforcing machinery can resort to suitable action.

(f) If the Deputy Superintendent of Police, after interaction with the members of the Khap Panchayat, has reason to believe that the gathering cannot be prevented and/or is likely to cause harm to the couple or members of their family, he shall forthwith submit a proposal to the District Magistrate/Sub-Divisional Magistrate of the District/Competent Authority of the concerned area for issuing orders to take preventive steps under the Cr.P.C., including by invoking prohibitory orders under Section 144 Cr.P.C., 1973 and also by causing arrest of the participants in the assembly under Section 151 Cr.P.C., 1973

(g) The Home Department of the Government of India must take initiative and work in coordination with the State Governments for sensitising the law enforcement agencies and by involving all the stake holders to identify the measures for prevention of such violence and to implement the constitutional goal of social justice and the rule of law.

(h) There should be an institutional machinery with the necessary coordination of all the stakeholders. The different State Governments and the Centre ought to work on sensitization of the law enforcement agencies to mandate social initiatives and awareness to curb such violence.

II. Remedial Measures:-

(a) Despite the preventive measures taken by the State Police, if it comes to the notice of the local police that the Khap Panchayat has taken place and it has passed any diktat to take action against a couple/family of an inter-caste or inter-religious marriage (or any other marriage which does not meet their acceptance), the jurisdictional police official shall cause to immediately lodge an F.I.R. under the appropriate provisions of the Indian Penal Code including Sections 141, 143, 503 read with 506 of IPC.

(b) Upon registration of F.I.R., intimation shall be simultaneously given to the Superintendent of Police/ Deputy Superintendent of Police who, in turn, shall ensure that effective investigation of the crime is done and taken to its logical end with promptitude.

(c) Additionally, immediate steps should be taken to provide security to the couple/family and, if necessary, to remove them to a safe house within the same district or elsewhere keeping in mind their safety and threat perception. The State Government may consider of establishing a safe house at each District Headquarter for that purpose. Such safe houses can cater to accommodate (i) young bachelor-bachelorette couples whose relationship is being opposed by their families /local community/Khaphs and (ii) young married couples (of an inter-caste or inter-religious or any other marriage being opposed by their families/local community/Khaphs). Such safe houses may be placed under the supervision of the jurisdictional District Magistrate and Superintendent of Police.

(d) The District Magistrate/Superintendent of Police must deal with the complaint regarding threat administered to such couple/family with utmost sensitivity. It should be first ascertained whether the bachelor-bachelorette are capable adults. Thereafter, if necessary, they may be provided logistical support for solemnising their marriage and/or for being duly registered under police protection, if they so desire. After the marriage, if the couple so desire, they can be provided accommodation on payment of nominal charges in the safe house initially for a period of one month to be extended on monthly basis but not exceeding one year in aggregate, depending on their threat assessment on case to case basis.

(e) The initial inquiry regarding the complaint received from the couple (bachelor-bachelorette or a young married couple) or upon receiving information from an independent source that the relationship/marriage of such

couple is opposed by their family members/local community/Khops shall be entrusted by the District Magistrate/ Superintendent of Police to an officer of the rank of Additional Superintendent of Police. He shall conduct a preliminary inquiry and ascertain the authenticity, nature and gravity of threat perception. On being satisfied as to the authenticity of such threats, he shall immediately submit a report to the Superintendent of Police in not later than one week.

(f) The District Superintendent of Police, upon receipt of such report, shall direct the Deputy Superintendent of Police incharge of the concerned sub-division to cause to register an F.I.R. against the persons threatening the couple(s) and, if necessary, invoke section 151 of Cr.P.C., 1973. Additionally, the Deputy Superintendent of Police shall personally supervise the progress of investigation and ensure that the same is completed and taken to its logical end with promptitude. In the course of investigation, the concerned persons shall be booked without any exception including the members who have participated in the assembly. If the involvement of the members of Khap Panchayat comes to the fore, they shall also be charged for the offence of conspiracy or abetment, as the case may be.

III. Punitive Measures:-

(a) Any failure by either the police or district officer/officials to comply with the aforesaid directions shall be considered as an act of deliberate negligence and/or misconduct for which departmental action must be taken under the service rules. The departmental action shall be initiated and taken to its logical end, preferably not exceeding six months, by the authority of the first instance.

(b) In terms of the ruling of this Court in Arumugam Servai (supra), the States are directed to take disciplinary action against the concerned officials if it is found that (i) such official(s) did not prevent the incident, despite having prior knowledge of it, or (ii) where the incident had already occurred, such official(s) did not promptly apprehend and institute criminal proceedings against the culprits.

(c) The State Governments shall create Special Cells in every District comprising of the Superintendent of Police, the District Social Welfare Officer and District Adi-Dravidar Welfare Officer to receive petitions/complaints of harassment of and threat to couples of inter-caste marriage.

(d) These Special Cells shall create a 24 hour helpline to receive and register such complaints and to provide necessary assistance/advice and protection to the couple.”

18. In **Civil Writ Petition No.6717 of 2009 titled as 'Asha and another Vs. State of Haryana and Others' decided on 25.07.2012**

Hon'ble Division Bench of this Court passed the interim order dated 31.03.2010 which reads as under:-

“Therefore, all the District and Sessions Judges in Punjab, Haryana and also U.T. Chandigarh are directed to ensure that if such run away couples approach them for help and assistance, interim protection shall be provided by the learned District and Sessions Judge, pending further orders of this Court. In case the District and Sessions Judge is not available, the senior-most Additional District and Sessions Judge will provide such protection.”

19. Thereafter, vide order dated 15.10.2010 passed in the above-said case Hon'ble Division Bench of this Court had given the following directions:-

“i) The direction of this Court dated 31.3.2010 granting liberty to couples who have married against the wishes of their parents to approach the District and Sessions Judges in Punjab, Haryana and U.T. Chandigarh for grant of protection is made absolute.

ii) The Police Officers are directed to deal sternly with parents/relatives/other members of the society who threaten such couples and create law and order situation. The States of Punjab and Haryana, as also the Union Territory of Chandigarh are directed to ensure that the protection centres indicated by them in various affidavits are properly run so that protection can be given to run away couples.

iii) The States of Punjab, Haryana and the Union Territory of Chandigarh are further directed to form mediation/counselling cells in the offices of Commissioners/Sr. Superintendents of police to guide parents, relatives and such couples to live in peace.

iv) The States of Punjab, Haryana and the Union Territory of Chandigarh are also directed to counsel Gram Panchayats in villages and create Special Cells in cities so as to prevail upon resisting parents/relatives to reconcile

with such couples and they be prevailed upon not to take as threat to their honour or family honour at all.

v) False cases be not registered at the behest of parents/relatives under Sections 363/366/376 IPC against such couples who are majors.

vi) Arrest be normally deferred till absolutely necessary in such cases and criminal force against the boy/groom be avoided.

vii) The States of Punjab, Haryana and the Union Territory of Chandigarh are directed to advertise the existence of such protection centres all over the respective states prominently at all police stations and also by issuing periodically advertisements in various Media. The States of Punjab and Haryana are further directed to ensure that a Registrar of Marriages should visit each protection centre atleast once a week at a fixed time and date. However, the visit by the Registrar of Marriages in U.T. Chandigarh shall be at least thrice a week unless there is no occupant of such centres or there is no requirement by a couple for Registration.

viii) The State Legal Services Authorities/the District Legal Services Authorities in the States of Punjab Haryana and the Union Territory of Chandigarh are directed to depute some legal service counsel at the said centres atleast three times a week to provide legal assistance/counseling to such couples who desire that.

ix) There shall be a Committee at every District Headquarters comprising of Deputy Commissioner, Superintendent of Police and District Social Welfare Officer of the district concerned. In districts having Police Commissioner system, the Committee would comprise of Divisional Commissioner, Police Commissioner and District Social Welfare Officer of the district concerned. It would be the duty of this Committee to ensure that directions issued by the respective States, as well as by this Court are implemented in letter and spirit.

x) Initially the run away couples will be provided shelter at the Protection centres/shelter homes for a period of ten days. During the said period the threat perception shall be reviewed by the above Committee. The period of shelter may be further extended by the Committee from time to time, keeping in view the threat perception depending on the circumstances in each case.

xi) It is further directed that for the first ten days, no boarding and lodging charges would be payable by such couples. In case any such couple is constrained to take

shelter at the protection centre for a longer period, each committee would determine reasonable charges therefor or given the social circumstances of the couple extend the free stay of the couple for such period as deemed necessary in the facts of the case.”

20. While disposing of the above-said petition vide order dated 25.07.2012 Hon'ble Division Bench of this Court had observed as under:-

“The matter is pending before the Court since long for monitoring only. All the runaway couples are being provided security as and when they approach the Court. The Shelter Homes in both the States and Union Territory, Chandigarh are also available for them. We feel that this petition does not require further monitoring. Accordingly, we dispose of this writ petition by issuing directions to both the States of Punjab & Haryana and Union Territory, Chandigarh to comply with the directions issued by this Court on 15.10.2010. In addition to above, further direction is issued that at every District Headquarters instead of earmarking any particular place(s), the authorities shall keep available minimum two rooms in the Circuit Houses/PWD Rest Houses and shelter be provided to the newly wedded couples as and when orders are issued by the District Judge, Deputy Commissioner and Senior Superintendent of Police of the concerned district. It is made clear that to get protection, the runaway couples can approach any of the District Judge in the States of Punjab & Haryana and Union Territory, Chandigarh and also Deputy Commissioner and Senior Superintendent of Police in all the districts of the above States and Union Territory, Chandigarh, irrespective of the place of their residence.

In view of above, direction No. (x) issued earlier vide order dated 15.10.2010 deemed to have been deleted from the order. The facilities to be provided to runaway couples will be reviewed by the officer who initially will pass an order granting shelter to the runaway couples and/or by the Committee as mentioned in Clause No. (ix) in the above order. If necessary, legal aid services shall be provided to the couples in need of shelter.”

21. The facts of the present case with other relevant factual details which have come or have been brought to the notice of this Court in the course of hearing of the present petitions show how the

directions issued are flouted and the same may be noticed as under:-

- (i) Sunita solemnized marriage with Dharambir and Sunita and Dharambir filed protection petition CIS No.PP/18/2018 titled as 'Sunita and Dharambir Vs. State of Haryana and others' before learned Sessions Judge, Sirsa. In the above said petition notice was issued to the respondents. Police report was also filed in that case. Respondents No.5 to 10-Sita Ram, Sharda Devi, Radhey Shayam, Sunil Kumar, **Balbir and Dalbir** made statements that they had no objection to the marriage of petitioners Sunita and Dharambir and they will not interfere in the life of petitioners and will not issue any threat to them in future. In view of the statement of respondents No.5 to 10, the petitioners Sunita and Dharambir made joint statement that in view of statement of respondents No.5 to 10 they do not apprehend any danger to their life and did not want to proceed with the petition which may be dismissed as withdrawn. In view of the statements of Sunita and Dharambir, the protection petition was dismissed as withdrawn vide order dated 21.03.2018 copy of which is taken on record.
- (ii) Since the police had knowledge regarding marriage of Sunita with Dharambir and filing of protection petition filed by them, the police was expected to take immediate steps for their rescue on receipt of information regarding

their abduction. However, it appears that no efforts were made by the police to rescue the couple immediately on receipt of the information regarding their abduction.

(iii) Sunita was recovered on 02.06.2018 and statement of Sunita was got recorded on 02.06.2018 under Section 164 of the Cr.P.C. who had stated that on 01.06.2018 at 2:00 p.m. her maternal uncles Balbir and Dalbir, Balwant, Jagat, Sundar, Sita Ram and Ravi came to her at Dhingsara. She went to Shishwal with them with her own wish. **Her husband, who had also gone with them, had not come back home so far.** She did not know where he is. Until his whereabouts are not found till then she will stay in the house of her maternal uncle at Shishwal. Sunita had named the persons with whom her husband Dharambir was last seen by her, yet no raid appears to have been conducted to arrest the persons named by Sunita or to join them in investigation for ascertaining the whereabouts of Dharambir on 02.06.2018 itself.

(iv) Custody of Sunita, who would have been aggrieved by commission of the offences by her father/other family members and their relatives, was given to her maternal uncle/father and no efforts appear to have been ever made for her protection by informing her that her husband Dharmbir had been allegedly murdered by her maternal uncles Balbir and Dalbir along with others despite the fact

that she was an important witness against the above said accused and other persons all or most of whom were her relatives.

- (v) Statement of Sunita was got recorded under Section 164 of the Cr.P.C. that she had no apprehension of harm to her and did not need any protection but it appears from her statements under Section 164 of the Cr.P.C. that she was not informed by the police that her husband Dharambir had been murdered by her relatives. To illustrate by use of metaphor lamb would be protected against lion not for the reason that it claims but because it needs the same.
- (vi) Dead body of Dharambir was recovered on 03.06.2018 from Sidhmukh Canal in the territory of Raslana and was identified to be that of Dharambir by his brother Rakesh on 04.06.2018 in the mortuary of CHC Bhadra, Rajasthan but the Haryana Police came to know about the same later which shows lack of serious efforts to trace Dharambir.
- (vii) Complainant Rai Singh made supplementary statement to the police on 04.07.2018 alleging that he made enquiries at his own level and came to know about the identity of the persons involved in the commission of the offences but it appears that till the making of such supplementary statement the police could not and did not know who were the persons involved in commission of the subject offences.

(viii) As per the reply filed before this Court 15 accused persons were alleged to be involved in the present case in commission of the offences mentioned out of which only 12 accused were arrested till the date of filing of the reply and three accused namely Neki Ram, Balwant and Sher Singh were stated to be absconding despite expiry of more than 2 years but no proceedings for issuance of non-bailable warrants of arrest against them, declaring them as proclaimed offenders and attachment and sale of their properties are stated to have been taken by the police.

(ix) The police arrested Dharam Pal @ Jagar, Dalbir, Sahab Ram, Ravi Kumar, Surjit Singh and Shri Ram and filed police report/challan against them on 25.08.2018, arrested Sunder Lal, Vinod Kumar, Bhawar Singh and Vikram and filed police report/challan against them on 11.02.2019, arrested Beeru and Ved Parkash and filed police report/challan against them on 15.05.2019 and arrested Balwant, Naiki Ram, Sher Singh, Balbir and Balraj and filed police report/challan against them on 30.12.2020. The delay of more than two years in such arrest and filing of police reports/challans delayed trial of the case which was under the directions of Hon'ble the Supreme Court required to be concluded within six months. The trial which commenced on filing of first police report/challan was conducted denovo every time on filing of supplementary

police reports/challans by the police so that the trial in fact commenced only after filing of the fourth police report/challan on 30.12.2020.

(x) It appears that the police did not record statement of Sunita under Section 161 of the Cr.P.C. and did not get her statement recorded under Section 164 of the Cr.P.C. by informing her regarding murder of Dharambir for ascertaining the circumstances leading to or attending the causing of his death.

(xi) There is no specific mention in the reply as to what investigation was actually made for ascertaining the role of father, brother (if any), and other family members of Sunita in commission of the subject offences apart from their relatives.

22. The present case is a glaring example how the directions given by Hon'ble Supreme Court are flouted, how the necessity of protection to the couple marrying against the wishes of their family members is ignored, how the police fails to take prompt action to rescue the couple on information being given to it, how the police tries to understate the offences, delay the investigation, shield the accused by its inaction and still claim that there was no laxity or delay in investigation of the case by it and how the higher police officers, who do not even know that the case falls in the category of honour killing and they are required to follow the directions given by Hon'ble Supreme Court, look the other way round and ignore the deficiencies

surfacing during investigation with almost culpable failure to appropriately supervise/monitor the investigation and take appropriate remedial action to discharge their statutory obligations. It will be appropriate that the Director General of Police, Haryana gets an enquiry conducted into the matter and directs taking of appropriate departmental action against the defaulting Police officers/officials.

23. This Court observed in its order dated 26.10.2020 that cases involving honour killing require fast track investigation by Special Investigation Teams having members with requisite expertise without any undue delay in investigation and unwarranted sympathy with the offenders while making sincere dedicated serious efforts for collection of circumstantial evidence available in completion of the chain of circumstantial evidence incriminating the accused responsible for commission of the heinous offence, taking of steps for protection of the witnesses including the survivor-wife or the husband and other important witnesses and also fast track trial before the Court for early disposal of the case by securing presence of the prosecution witnesses before the Court. Accordingly, the Director General of Police, Haryana was directed to file an affidavit giving the following information:-

- (i) the number of cases involving honour killing registered in the State of Haryana in which investigation or trial is pending;
- (ii) the steps taken for securing fast track investigation and fast track trial of such cases and
- (iii) steps taken for protection of the survivor-wife or the husband and other important witnesses in the completion of the chain of circumstantial evidence

incriminating the accused responsible for commission of the heinous offence.

24. In compliance with order dated 26.10.2020, additional reply by way of affidavit of Satender Kumr, HPS, Deputy Superintendent of Police, Traffic, Fatehabad was filed by the respondent-State of Haryana on 10.11.2020 and affidavit of Mr. Manoj Yadava, Director General of Police, Haryana was filed on 02.12.2020.

25. In his affidavit dated 26.11.2020, Manoj Yadava, Director General of Police, Haryana submitted that there are total thirteen cases in the State of Haryana out of which one case has been decided on 11.09.2020. Charge-sheets have been submitted in ten cases. Five cases are fixed for prosecution evidence while charges are yet to be framed in five cases. Two cases are pending for investigation. In such cases the investigation has been ordered to be carried out by Special Investigation Team (SIT) headed by Deputy Superintendent of Police rank Police Officers and such cases have been ordered to be included in 'Chinhit Apradh' Scheme of Haryana Government for monitoring by District Level Committee headed by the Deputy Commissioner and comprising of Superintendent of Police, District Attorney and Superintendent of Jail of the District. State of Haryana has notified "Haryana Witness Protection Scheme, 2020". In the cases which are pending, the survivor or the witnesses did not move any application for providing of any protection.

26. From the statistical information given by the Director General of Police, Haryana this Court observed that case bearing FIR

No.243 dated 30.09.2014 registered under Sections 148, 146, 302, 341,

342, 506 and 120-B of the IPC at Police Station Ding was decided on 11.09.2020 after about six years (instead of six months) while one case was pending since 2017 and three cases were pending since 2018 which needed to be scrutinized/monitored regarding the delay in investigation/trial and also lapses in investigation and in securing presence and examination of the prosecution witnesses. In view of the delay in recording of prosecution evidence information was sought from concerned Sessions Judges for ascertaining the causes of delay occurring in trial of such cases. In view of the observations made by Hon'ble Supreme Court in ***Doongar Singh Vs. State of Rajasthan 2018 (1) RCR Criminal 256, State of U.P. Vs. Shambhu Nath Singh and others, 2001 (2) R.C.R. (Criminal) 390, Hussain and another Vs. Union of India 2017(2) RCR Criminal 312 and Thana Singh Vs. Central Bureau of Narcotics 2013(1) R.C.R(Criminal) 861***, the trial Courts, where these cases were pending for prosecution evidence, were directed to expedite trial in such cases on resumption of physical hearing and to conclude prosecution evidence expeditiously by conducting trial on day to day basis as far as possible and by allocating block of dates for the trial as directed by Hon'ble Supreme Court and by issuing coercive process for securing presence of the witnesses, if so required. The Director General of Police, Haryana was also directed to look into the matter of delay in investigation of such cases and also delay/inaction in execution of Court process and securing presence of the prosecution witnesses in such cases and issue appropriate instructions and take remedial steps as may be required. The Director

General of Police, Haryana was directed to file an additional affidavit as to instructions so issued and remedial steps so taken and also as to whether any instructions have been issued earlier to the Superintendents of Police in the State of Haryana for taking of disciplinary action against the Police Officers not executing/not returning the Court process; not producing the accused on the date of hearing fixed; and not attending the Court in compliance with summons/warrant of arrest issued against them and whether any action was so taken in these cases.

27. In view of the nature of the matter involved which also concerned the State of Punjab and U.T., Chandigarh, vide order dated 03.02.2020 State of Punjab and U.T., Chandigarh were ordered to be impleaded as respondents No.2 and 3 in CRM-M-23537-2020. The Director General of Police, Punjab and the Director General of Police, Chandigarh were also directed to file affidavits in the registry before the date fixed furnishing information regarding following aspects:-

- (i) the number of cases involving honour killing registered in the State of Punjab/U.T., Chandigarh in which investigation or trial is pending;
- (ii) the steps taken for securing fast track investigation and fast track trial of such cases and
- (iii) steps taken for protection of the survivor-wife or the husband and other important witnesses in the completion of the chain of circumstantial evidence incriminating the accused responsible for commission of the heinous offences.

28. In compliance with order dated 03.12.2020, affidavit dated 02.02.2021 of Mr. Manoj Yadava, Director General of Police, Haryana,

Panchkula was filed and reports were received from concerned District and Sessions Judges. Affidavit dated 03.02.2021 of Sh. Dinkar Gupta, Director General of Police, Punjab and affidavit dated of 03.02.2021 Sh. Sanjay Beniwal, Director General of Police. U.T. Chandigarh were filed. In his affidavit, Sh. Dinkar Gupta, Director General of Police, Punjab submitted that fourteen cases of honour killing are pending in the State of Punjab while in his affidavit Sh. Sanjay Beniwal, Director General of Police. U.T. Chandigarh has submitted that no case of honour killing is pending in U.T., Chandigarh.

29. In view of the facts and circumstances of the present case, affidavits filed and reports received in the case showing flagrant violation of some of the directions already issued by Hon'ble Supreme Court and this Court, delay or laxity in proper investigation and collection of evidence available and delay in conclusion of trial and for preventing abuse of process and securing ends of justice and also for discharge of obligation of this Court to uphold the Constitution and the Laws and to preserve and maintain Rule of Law, directions are issued in exercise of powers under Article 226 of the Constitution of India/Section 482 of the Cr.P.C. as under:-

1. Directions to State Governments

Governments of Punjab and Haryana and U.T. Chandigarh Administration are directed to appoint Committees consisting of Home Secretary, Finance Secretary, Additional Director General of Police, Legal Remembrancer and Member Secretary of the State Legal Services Authorities, Punjab, Haryana and U.T. Chandigarh at the State level

within one month which shall examine all the relevant issues of compliance with the directions issued by Hon'ble Supreme Court and this Court and submit their reports with their recommendations within three months and Governments of Punjab and Haryana and U.T. Chandigarh Administration shall consider recommendations so made and take policy based action for implementing the recommendations considered appropriate/necessary for giving effect to the directions given by Hon'ble Supreme Court and this Court from time to time. The Committee shall also periodically monitor the issue of compliance with such directions in the States of Punjab and Haryana and U.T. Chandigarh.

2. Directions to the police:-

The Director Generals of Police, Punjab, Haryana and U.T. Chandigarh are directed to (i) create a Special Cell in each Districts which shall collect and maintain information and prepare the data base in respect of couples who approached this Court or the District and Sessions Judges in the States of Punjab, Haryana and U.T., Chandigarh for protection and call for reports regarding assessment of threat perception to them and take appropriate action/issue necessary instructions and (ii) set up 24 hour helpline or enable any of the helplines already set up to receive and register request for protection and to coordinate with the concerned police officers/officials for providing necessary assistance/advice/protection to such couples.

The Director Generals of Police, Punjab, Haryana and U.T. Chandigarh are further directed to issue instructions to the

Commissioners of Police/Senior Superintendents of Police/
Superintendents of Police in the States of Punjab and Haryana and U.T.,
Chandigarh for ensuring that

(i) in case of reporting of any violence against inter caste or
inter religion marriage or honour killing, FIR is immediately registered
and upon registration of FIR, intimation is simultaneously given to the
concerned Deputy Superintendent of Police who, in turn, shall ensure
that effective investigation of the crime is done and taken to its logical
end with promptitude within the period of 60/90 days as the case may
be as far as possible.

(ii) Additionally, immediate steps are taken to provide security
to the couple/family and, if necessary, to remove them to a safe house
within the same district or elsewhere keeping in mind their safety and
threat perception.

(iii) Any failure by any police officer/official to comply with
the aforesaid directions be considered as an act of misconduct for which
departmental action be taken under the service rules.

3. Directions for expeditious trial :-

(i) All the Sessions Judges in the States of Punjab, Haryana
and U.T. Chandigarh are directed to ensure that cases of Honour Killing
are assigned to the designated Court/Fast Track Court/one jurisdictional
court.

(ii) Such Courts concerned are directed to ensure expeditious
disposal of such cases preferably within the period of six months as
directed by Hon'ble Supreme Court in *Shakti Vahini's case (supra)*.

This direction shall apply even to pending cases with modification of applicability from the date of receipt of a copy of this order.

(iii) In view of the observations made by Hon'ble Supreme Court in *Doongar Singh Vs. State of Rajasthan 2018 (1) RCR Criminal 256*, *State of U.P. Vs. Shambhu Nath Singh and others, 2001 (2) R.C.R. (Criminal) 390*, *Hussain and another Vs. Union of India 2017(2) RCR Criminal 312* and *Thana Singh Vs. Central Bureau of Narcotics 2013(1) R.C.R(Criminal) 861* the concerned Courts shall conduct trial on day to day basis as far as possible by allocating block of dates for the trial as directed by Hon'ble Supreme Court and by issuing coercive process for securing presence of the witnesses, if so required.

(iv) In case of non-appearance of any of the witnesses, the concerned Court shall take appropriate action against the concerned witness absenting without any lawful excuse by filing complaint under Section 174 of the Indian Penal Code, 1860 or taking proceedings under Section 350 of the Cr.P.C. against him.

(v) In cases where the trial is not concluded within the period of six months, the concerned Court shall submit the progress report to this Court seeking extension of time specifically mentioning the period within which the trial is likely to be concluded.

4. Directions to the State Legal Services Authorities:-

The State Legal Services Authorities, Punjab, Haryana and U.T. Chandigarh are directed :

(i) to prepare a scheme for providing legal aid to couples

seeking protection and also legal aid to the complainant for representing him in cases of violence against inter caste/inter religion marriage and honour killings and properly presenting the case before the trial Court for award of compensation to the victims of violence against inter caste/inter religion marriages and dependents of victims of honour killings against accused in the eventuality of their conviction;

(ii) to further strengthen through para legal volunteers, Anganwadi Workers, National Social Service Volunteers, Saksham Yuva, Students of Law Colleges and School/College Legal Literacy Clubs their public awareness programmes against the social evils of violence against inter caste/inter religion marriages and honour killing; and

(iii) to take appropriate steps for award of appropriate interim/final compensation to the victims of inter caste/inter religion marriage and dependants/legal heirs of victims of honour killing under the Victim Compensation Scheme including the steps of issuance of appropriate directions by this Court, if so required.

30. Haryana State Legal Services Authority is also directed to take appropriate steps for award of compensation to legal heirs of Dharambir within three months from the date of this order.

31. A Copy of this order be supplied to learned State Counsel for the States of Punjab and Haryana and Additional Public Prosecutor for U.T., Chandigarh and be also sent to the Chief Secretaries, Punjab and Haryana and Home Secretary, U.T., Chandigarh, the Director Generals of Punjab, Haryana and U.T., Chandigarh, Member

Secretaries of Legal Services Authorities, Punjab, Haryana and U.T.,
Chandigarh and all District and Sessions Judges in the States of Punjab
and Haryana and U.T., Chandigarh for requisite compliance.

31.08.2021

Vinay

**(ARUN KUMAR TYAGI)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No