

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

CRWP-7544-2021

Date of decision-31.08.2021

Soma Rani and another

...Petitioners

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Lupil Gupta, Advocate for the petitioners.

Mr. Ramandeep Singh Sandhu, Sr.DAG, Punjab.

Mr. R.S.Sekhon, Advocate for respondent No.4.

MANOJ BAJAJ, J.

By means of this writ petition under Article 226 Constitution of India, petitioners seek a writ of mandamus by way of direction to official respondent Nos.2 and 3 to protect their life and liberty from respondent Nos. 4 to 8, as petitioners are living in live-in relationship.

The facts in brief leading to the writ petition are that Soma Rani (petitioner No.1) was married with Darshan Singh (respondent No.7) 20 years back, as per Sikh rights and rituals and out of this wedlock, three children were born, who are presently 18 years, 15 years and 13 years old, respectively. After some time of marriage, dispute

arose between the couple, who separated through panchayati divorce on 27.06.2014 (Annexures P-3 and P-4). Similarly, petitioner No.2, was married to Kulwinder Kaur (respondent No.4) and out of this wedlock two children were born, who are 6 years and 4 years respectively. It is further pleaded in the petition that petitioners being known to each other have been living in live-in relationship for the last one year, who apprehend that private respondents would not spare them as they are receiving continuous threats, whereupon they sent a representation dated 04.08.2021 (Annexure P-5) to Senior Superintendent of Police Fazilka and Station House officer, Fazilka (respondent Nos.2 and 3), but no action has been taken so far on their request of granting them protection. In support of his pleadings, learned counsel for the petitioners has placed reliance upon the decisions of this Court rendered in “**Preeti and another Vs. State of Haryana and others**” and “**Soniya and another Vs. State of Haryana and others**” (Annexures P-6 and P-7, respectively). Hence this writ petition.

Learned counsel for the petitioners contends that the petitioners are major and they have decided to live together, therefore, interference by the private respondents is not justified, particularly when the marriage between the petitioner No.1 (Soma Rani) and her husband, namely, Darshan Singh (respondent No.7) stands dissolved.

He has invited the attention of the Court to the said Panchayati divorce dated 27.06.2014 (Annexures P-3 and P-4), which is in the form of their affidavits. Learned counsel has invited the attention of the Court to Annexure P-5 to contend that a representation dated 04.08.2021 has already been given to Senior Superintendent of Police, Fazilka, however, till date no action has been taken upon the same. Learned counsel has also placed reliance upon the decision of Hon'ble the Supreme Court rendered in **Gurwinder Singh and another Vs. State of Punjab and others (Special Leave to Appeal (Crl.) No.4028 of 2021** and decisions of this Court rendered in “**Savita Rani and another Vs. State of Punjab and others**” in CRWP-7553-2021 on 12.08.2021, “**Mamta Rani and another Vs. State of Punjab and others**” in CRWP-8053-2021 on 25.08.2021, and “**Jaspreet Kaur and another Vs. State of Haryana**” passed in CRWP-8150-2021 on 27.08.2021 and prays for issuance of necessary directions to official respondents to provide security to the petitioners.

At this stage, Mr. R.S. Sekhon, Advocate appears on behalf of respondent No.4 and opposed the prayer and submitted that a complaint by Kulwinder Kaur (respondent No.4) has already been given to Police against the petitioner No.2, however, the same is yet to be acted upon. He further submits that the petitioners have given

beatings to Kulwinder Kaur on number of occasions as she has been consistently opposing their unholy alliance. He has further argued that their apprehension of threat is baseless and respondent No.4 who has already been left at lurch along with two minor children cannot afford to give threats to the petitioners. He prays that the petition be dismissed.

During the course of hearing, it is stated by Mr. Lupil Gupta, Advocate that petitioner No.1-Soma Rani is taking tuition classes and has an independent income, whereas Balwant Singh has two sources of income i.e. from agricultural land taken on lease by him and apart from it, he is working for Axis Bank as well. He fairly states that the children of these petitioners are residing with their respective spouse.

After hearing learned counsel for the parties, this Court finds that the previous marriage of both the petitioners with their respective spouse has not been dissolved in accordance with law and the alleged Panchayati divorce relied upon by the petitioners is not sufficient to accept their stand of dissolution of marriage. Apart from it, the representation submitted by the petitioners to respondent No.2 does not reveal the manner and mode of alleged threat extended to the petitioners.

Here it is relevant to rely upon the decision of this Court dated 10.06.2021 in “**Daya Ram and another Vs. State of Haryana and others**” in CRWP-5212-2021, wherein the trend of filing such type of petitions was considered. It was observed that large number of cases are filed everyday before this Court without any 'actual' or 'real' cause of action. The relevant observations read as under:-

“The society, for the last few years, has been experiencing profound changes in social values, especially amongst exuberant youngsters, who seldom in pursuit of absolute freedom, leave the company of their parents etc. to live with the person of their choice, and further in order to get the seal of the court to their alliance, they file petitions for protection by posing threat to their life and liberty. Such petitions are ordinarily based on the sole ground of apprehension of threat predicted against the disapproving parents or other close relatives of the girl only, as the decision of the couple is rarely opposed by the family members of the boy. Their right to live together is either based on their sudden, secretive and small destination marriage or upon live-in-relationship. Of-course, the aggrieved persons can avail the alternative remedy, but a large number of petitions land in the lap of this court as according to writ petitions, alternative remedy is less felicitous. Majority of such petitions contain formal symbolic averments, grounds with imaginary cause of action, and are rarely founded upon 'actual' or 'real'

existence of threat, and these types of cases consume considerable time of this court, that too at the cost of many other cases waiting in line for hearing.”

Further, in the case of **Daya Ram (supra)**, the concept of live-in relationship was also considered by this Court in the light of decision of Hon'ble Supreme Court in **Indra Sarma Vs. V.K.V.Sarma, 2013 (15) SCC 755**. The relevant observations are extracted below:-

“No doubt, the other concept of live-in-relationship between two adults of opposite gender has got recognition in India also, as the legislature has injected some legitimacy in this kind of alliance, while promulgating “Protection of Women from Domestic Violence Act, 2005” and liberally defined “domestic relationship” in Section 2(f). However, despite this elasticity, some sections of the society are reluctant to accept such kinds of relationship. It has to be constantly borne in mind that the length of the relationship coupled with discharge of certain duties and responsibilities towards each other makes such relationship akin to the marital relations.

The Hon'ble Supreme Court in (2013) 15 Supreme Court Cases 755 (Indra Sarma Versus V.K.V.Sarma), has already discussed the nature of live-in-relationship and made the following observations:-

“56. We may, on the basis of above discussion cull out some guidelines for testing under what circumstances, a live-in relationship will fall within the expression “relationship in the nature of marriage” under Section 2(f) of the DV Act. The guidelines, of course, are not exhaustive, but will definitely give some insight to such relationships.
56.1 Duration of period of relationship- Section 2(f) of the DV Act has used the expression “at any point of time”, which means a reasonable period of time to maintain and continue a relationship which may vary from case to case, depending upon the fact situation.

56.2 Shared household- The expression has been defined under Section 2(s) of the DV Act and, hence, need no further elaboration.

56.3 Pooling of Resources and Financial Arrangements Supporting each other, or any one of them, financially, sharing bank accounts, acquiring immovable properties in joint names or in the name of the woman, long term investments in business, shares in separate and joint names, so as to have a long standing relationship, may be a guiding factor.

56.4 Domestic Arrangements-Entrusting the responsibility, especially on the woman to run the home, do the household activities like cleaning, cooking, maintaining or upkeeping the house, etc. is an indication of a relationship in the nature of marriage.

56.5 Sexual Relationship- Marriage like relationship refers to sexual relationship, not just for pleasure, but for emotional and intimate relationship, for procreation of children, so as to give emotional support, companionship and also material affection, caring etc.

56.6 Children- Having children is a strong indication of a relationship in the nature of marriage. Parties, therefore, intend to have a long standing relationship. Sharing the responsibility for bringing up and supporting them is also a strong indication.

56.7 Socialization in Public- Holding out to the public and socializing with friends, relations and others, as if they are husband and wife is a strong circumstance to hold the relationship is in the nature of marriage.

56.8 Intention and conduct of the parties- Common intention of parties as to what their relationship is to be and to involve, and as to their respective roles and responsibilities, primarily determines the nature of that relationship.

A reading of the above clearly indicates that to attach legitimate sanctity to such a relation, certain conditions are required to be fulfilled by such partners. Merely because the two adults are living together for few days, their claim of live-in-relationship based upon bald averment may not be enough to hold that they are truly in live-in-relationship.”

A careful analysis of the facts and circumstances of the case clearly establishes that the filing of the petition is a calculated move by the petitioners, who have levelled unsubstantiated allegations against their respective spouses, in an attempt to camouflage their unholy alliance, without even obtaining divorce, which may also constitute an offence under penal laws. Further, the citations Annexures P-6, P-7 and decision in **Gurwinder Singh and another Vs. State of Punjab and others** (Special Leave to Appeal (Crl.) No.4028 of 2021, relied upon by the learned counsel were also dealt with in the **Daya Ram's case (supra)**, as incidentally Mr. Lupil Gupta, Advocate was the counsel for the petitioners, but, he has chosen not to cite the said judgment. The other judicial pronouncements relied upon by the learned counsel for the petitioners are of no help as those cases were disposed of by directing the official respondents to look into the representation of the petitioners therein, and the pleadings, much less *prima facie* existence of alleged threat on merits were not examined.

Consequently, this Court has no doubt in holding that the petitioners have invoked the extra ordinary writ jurisdiction of this court without a justifiable cause of action and the petitioners deserve to be saddled with costs.

Resultantly, this Court does not find any reason to exercise

the extra ordinary writ jurisdiction and the petition is dismissed with costs of Rs.50,000/- to be deposited within one month with the Institute of Blind, Sector-26, Chandigarh.

Chief Judicial Magistrate, Fazilka shall ensure the recovery and deposit of the costs.

31.08.2021
vanita

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No