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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP No.7903 of 2021 (O&M)

Date of decision: 01.09.2021

Ishrat Bano and another

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. M.K. Dhot, Advocate
for the petitioners.

Mr. Sukhbir Maandi, Advocate
for Alia Hasan (earlier wife of petitioner No.2)

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. S.K. Singla, Advocate
for respondents No.5 to 9.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this writ petition is for issuance of a direction to the official respondents to protect the life and liberty of the petitioners at the hands of respondents No.5 to 9.

Counsel for the petitioners has argued that the petitioners have performed the marriage and are apprehending threat to their life and liberty at the hands of respondents No.5 to 9. It is further submitted that previously, the petitioner No.2 was married to one Alia Hasan and the marriage was annulled by way of divorce documents dated 26.07.2018, 27.08.2018 and 27.09.2018 i.e. vide 03 divorce deeds executed by petitioner No.2 – Aslam Khan himself.

A perusal of these 03 divorce deeds relied upon by the petitioners reveals that these are one sided documents prepared by petitioner No.2 and there are two common witnesses namely Shehnaz Ali and Feroz Khan. There is no signature of the first wife of petitioner No.2 namely Alia Hasan, giving her consent to such divorce. Even otherwise, a perusal of these divorce deeds further reveal that the

CASE HEARD THROUGH VIDEO CONFERENCING

marriage of petitioner No.2 was performed with Alia Hasan on 06.07.2013 and out of the said wedlock two daughters namely Sohaila Aslam and Amima Aslam were born, who are alive and residing with the first wife of petitioner No.2 i.e. Alia Hasan.

Counsel for the petitioners has further argued that after this one sided customary divorce, the petitioner No.2 has now performed marriage with petitioner No.1 on 20.08.2021. The Co-ordinate Bench while taking up this petition has directed the petitioners to inform the Court as to how much amount, the petitioner No.2 is ready to give to his earlier wife to enable her to maintain herself.

Despite taking 02 dates, no such proposal has come.

This Court cannot ignore the fact that the Court being legal guardian of the 02 minor girls, who are living at the mercy of their mother – Alia Hasan, as the petitioner No.2 is not only claiming to have divorced his first wife Alia Hasan but he has also refused to maintain and take care of the upbringing of his 02 minor daughters aged 4½ years and 02 years.

On the face of it, the present petition is nothing but a ploy to seek a seal of this Court regarding the lustful and adulterous life of petitioner No.2 with petitioner No.1 and the Court cannot be a party to the same. The arguments of petitioner No.2 that he has a right to perform second marriage under Muslim Law is misconceived as this Court instead of taking an academic view is more concerned about the welfare of 02 minor girls as it is clear that petitioner No.2 has intentionally failed to maintain his first wife and 02 minor daughters.

Accordingly, the present petition is dismissed with Rs.1,00,000/- costs to be paid to Alia Hasan.

**(ARVIND SINGH SANGWAN)
JUDGE**

01.09.2021
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Whether speaking/reasoned: Yes/No