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

CRWP-8209-2021

Date of decision : 24.09.2021

Harleen Kaur and another

...Petitioners

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE VIKAS BAHL**

Present: Mr. Ram Kumar Chauhan, Advocate for the petitioners.

Mr. Saurav Khurana, DAG, Punjab  
for respondent Nos.1 to 3.

None for respondent Nos.4 to 8.

(Through Video Conferencing)

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**VIKAS BAHL, J. (ORAL)**

The present Criminal Writ Petition has been filed under Article 226 of the Constitution of India for directing respondent Nos.2 and 3 to protect the life and liberty of the petitioners.

Learned counsel for the petitioners has submitted that petitioner No.1 was born on 05.08.1999 as is apparent from her Birth Certificate (Annexure P-2) and petitioner No.2 was born on 26.07.2003 as is apparent from his Birth Certificate (Annexure P-4). It is, thus, apparent that petitioner No.2 is although major but is not of marriageable age. It is further contended that the petitioners have performed marriage on 26.07.2021 and

for the said purpose, affidavit having the photographs of both the petitioners is annexed alongwith the present petition as Annexure P-5. It is also submitted that the petitioners have given a detailed representation dated 25.08.2021 (Annexure P-8) to respondent No.2 as they are apprehending harm to their life and liberty and have, thus, sought protection.

Learned counsel for the petitioners has further pointed out that on the last date of hearing i.e. on 31.08.2021, the protection was granted to the petitioners but he was required to address arguments with respect to the initiation of proceedings against the petitioners as petitioner No.2 is not 21 years of age.

Learned counsel for the petitioners has relied upon the judgment passed by the Coordinate Bench of this Court in case **Jashanpreet Kaur and another Vs. State of Punjab and others**, reported as **2019(4) RCR (Civil) 183**, in which case although, girl therein was aged about 15 years and 8 months and boy was aged about 19 years and 3 months, yet the Coordinate Bench after considering the provisions of Hindu Marriage Act, 1955, was pleased to protect the life and liberty of the petitioners therein. The relevant portions of the said judgment is reproduced hereinbelow:-

“1 to 5        xxx xxx

6.        *Facts, as pleaded in the petition, succinctly are that the petitioner No.1, a minor girl born on 04.10.2003 and petitioner No.2, a boy born on 10.03.2000, though a major, but not of marriageable age, purportedly are in love with each other and got married on 17.06.2019 at Panchkula according to Hindu Rites and Ceremonies. Photographs of their marriage have been appended with the petition.*

7 to 16.        xxx xxx

17. *The issue in hand, however, is not marriage of the petitioners, but the deprivation of fundamental right of seeking protection of life and liberty. I have no hesitation to hold that Constitutional Fundamental Right under Article 21 of Constitution of India stands on a much higher pedestal. Being sacrosanct under the Constitutional Scheme it must be protected, regardless of the solemnization of an invalid or void marriage or even the absence of any marriage between the parties.*

18. *It is the bounden duty of the State as per the Constitutional obligations casted upon it to protect the life and liberty of every citizen. Right to human life is to be treated on much higher pedestal, regardless of a citizen being minor or a major. The mere fact that the petitioners are not of marriageable age would not deprive them of their fundamental right as envisaged in Constitution of India, being citizens of India.*

19. *In view of the discussion above, the Senior Superintendent of Police, Batala is directed to verify the contents of the petition particularly the threat perception of the petitioners and thereafter provide necessary protection qua their life and liberty, if deemed fit.*

20. *It is clarified that this order shall neither be treated as a stamp of this Court qua marriage of the petitioners nor any reflection on the merits of the contentions raised by them in the present petition.*

21. *The writ petition is, accordingly, disposed of. ”*

Learned counsel for the petitioners has also relied upon judgment of Hon'ble the Supreme Court of India in **Hardev Singh Vs. Harpreet Kaur and others** reported as **2020(1) RCR (Criminal) 238** to contend that in such a situation, where petitioner No.2 is more than 18 years

of age, no action should be taken against the petitioners.

Learned counsel for the petitioners has submitted that the petitioners would be satisfied in case respondent No.2-Senior Superintendent of Police is directed to look into representation dated 25.08.2021 (Annexure P-8) and after seeing threat perception to the petitioners, takes appropriate action in accordance with law.

Learned counsel for the State has stated that he has no objection in case, respondent No.2-Senior Superintendent of Police, looks into the representation dated 25.08.2021 (Annexure P-8) and takes appropriate action in accordance with law.

No body has put in appearance on behalf of respondent Nos.4 to 8 in spite of service.

After considering the abovesaid facts and without commenting upon the legality of the marriage and expressing any opinion on merits of the case, the present Criminal Writ Petition is disposed of with direction to respondent No.2 to look into the representation dated 25.08.2021 (Annexure P-8) and after considering the threat perception to the petitioners, respondent No.2 will take appropriate action in accordance with law.

It is, however, clarified that this order shall not debar the State from proceeding against the petitioners, if involved in any other case.

**24.09.2021**

*Pawan*

**(VIKAS BAHL)  
JUDGE**

**Whether speaking/reasoned:-**

**Yes/No**

**Whether reportable:-**

**Yes/No**