

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-10769-2021

Date of Decision: 16.11.2021

Sunita and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present: Mr. Manpreet Singh. Advocate,
for the petitioners.

SANT PARKASH, J.

The petitioners have approached this Court by way of the present criminal writ petition under Article 226 of the Constitution of India for issuance of directions to the official respondents No. 2 to 4 to protect their life and liberty from the hands of respondents No. 5 to 7, who are opposing their live-in relationship.

It is averred in the petition that petitioner No.1 was earlier married to one Harwinder Singh and has got the decree of divorce. As far as petitioner No.2 is concerned, he is married to respondent No.5 but both of them are stated to be living separately. It is further averred that petitioner No.2 is in a live-in relationship with petitioner No.1. The said relationship is being opposed by respondent No.5 (wife of petitioner No.2) and her family members, i.e. respondents No.6 and 7. The petitioners apprehend that the private respondents would cause harm to them, therefore, they submitted a representation dated 09.11.2021 (P-3) to the Senior Superintendent of Police, Rupnagar-respondent No.2, whereupon no action is being taken. Hence, the present writ petition.

Learned counsel for the petitioners has submitted that as per the order dated 11.09.2021 passed by the Family Court, petitioner No.2 has agreed to pay Rs.25,000/- per month to respondent No.5 as maintenance and Rs.5,000/- as EMI of house loan. He has further submitted that the petitioners are live-in relationship and are apprehending danger to their life and liberty at the hands of respondents No.5 to 7. He places reliance upon a Division Bench judgment of this Court rendered in ***LPA No.1678 of 2014*** titled as "***Rajwinder Kaur and another Vs State of Punjab and others, 2014 (4) RCR (Criminal) 785***" to support his claim.

Notice of motion.

Mr. Tanvir Joshi, Assistant Advocate General, Punjab accepts notice on behalf of respondents No.1 to 4. Copy of the paper book has already been supplied to learned State counsel by the Registry.

This Court has heard the learned counsel for the parties.

From the perusal of the order dated 11.09.2021 passed by the Principal Judge, Family Court, Runagar, produced in the Court today, by the learned counsel for the petitioners, it would be revealed that petitioner No.2 agreed to pay Rs.25,000/- per month to respondent No.5-wife and their two children as maintenance. In addition, he has also intended to pay Rs.5,000/- as EMI of house loan. The petitioners are stated to be residing in live-in relationship. Hon'ble the Supreme Court in ***Joseph Shine Vs Union of India (Writ Petition (Criminal) No. 194 of 2017, decided on 27.09.2018***, has struck down 497 IPC as being has been unconstitutional and violative of Articles 14, 15 and 21 of the Constitution of India.

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 their decision to reside together.

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). Moreover, it is the fundamental right of the parties to seek protection from the Court and it is the duty of the Court to protect the life and liberty of the petitioners. Reference in this regard can be made in ***Rajwinder Kaur's case (supra)*** as well as Single Bench judgment rendered in ***CRWP No.4533 of 2021***, titled as ***"Soniya and another vs. State of Haryana and others"***, 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.

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-Senior Superintendent of Police, Rupnagar 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.

Registry is directed to send a copy of this order along with copy of the petition and above said representation to respondent No.2-Senior Superintendent of Police, Rupnagar for requisite compliance.

16.11.2021
mks

(SANT PARKASH)
JUDGE

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO