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

CRWP-11096-2021

Date of decision : 25.11.2021

Apsana and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Mohammad Arshad, Advocate for the petitioners.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

Learned counsel for the petitioners, at the outset, submits that there is a typographical error in the present petition inasmuch as petitioner No.2 is son of Akhater whereas it has wrongly been mentioned as wife of Akhater and made an oral request that the words “wife of Akhater”, may kindly be read as “son of Akhater”.

Ordered accordingly.

The present Criminal Writ Petition has been filed under Article 226 of the Constitution of India for issuance of direction to respondent nos.2 to 4 to protect the life and liberty of the petitioners.

Petitioner no.1 is stated to be born on 01.01.2001 and for this purpose, reference has been made to Aadhaar card (Annexure P-1). Petitioner no.2 is stated to be born on 01.01.2000 and for the said purpose, reference has been made to Aadhaar card (Annexure P-2). Both the

petitioners have married each other on 17.11.2021 as is apparent from Marriage Certificate/*Nikahnama* dated 17.11.2021 (Annexure P-3). It is further stated that petitioner no.2 is already married to respondent No.8 and no divorce has been taken by petitioner No.2 from respondent No.8-Aasru, who is the first wife of petitioner No.2. It is further submitted that both the petitioners belong to Muslim community and second marriage is permissible as per Muslim Law. Reliance has been placed upon the judgment dated 03.09.2021 passed by the Division Bench of this Court in ***LPA-769-2021*** titled as “***Ishrat Bano and another vs. State of Punjab and others***” and in the said judgment, it has been held as under:-

“The aspect which we are considering and dealing with is with regard to the threat to the life and liberty to the appellants as has been asserted by them. No doubt, in case a criminal case is registered against any of the parties, the law should take its own course, however, the life and liberty of any person who has approached the Court with such a grievance need to be taken care of and the protection be provided as permissible in law. No person can be permitted or allowed to take law in his hands and therefore, keeping in view the said aspect, we dispose of the present appeal by observing that the Senior Superintendent of Police, Maler Kotla, shall take into consideration the representation dated 17.08.2021 (Annexure P-5) submitted by the appellants and if some substance is found therein, take appropriate steps in accordance with law to ensure that the life and liberty is not jeopardized of the appellants at the hands of the private respondents. This direction shall not be construed in any manner to restrain the official respondents to proceed against the appellants in case

there is some criminal case registered against them. The law shall take its own course and it shall be open to the authorities/investigating agency to proceed against the appellants, if required in law and in accordance thereto.”

Thus, the Division Bench after considering the aspect of protection of life and liberty being of paramount consideration and without getting into the issue as to whether the relationship between the parties was legal or not, even in spite of the fact that there is a criminal case registered against the parties therein, however, granted them protection.

Learned counsel has further submitted that the petitioners have given a representation dated 18.11.2021 (Annexure P-4) to respondent Nos.3 and 4 and they would be satisfied in case respondent No.3 is directed to look into the said representation and after considering threat perception to the petitioners, to take appropriate action.

Notice of motion to respondents Nos.1 to 4 only.

On advance notice, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of respondents Nos.1 to 4 and has stated that he has no objection in case respondent No.3 is directed to look into the representation of the petitioners on the aspect of threat perception and to take appropriate action, in accordance with law.

This Court has heard learned counsel for the parties.

In view of the judgment passed by the Division Bench of this Court in ***Ishrat Bano's*** case (Supra), it goes without saying that protection of life and liberty is a basic feature of the Constitution of India. Every person, more so, a major, has the right to live his / her life with a person of his / her

choice at any rate, whenever this Court, prima-facie, is satisfied that on account of some relatives/ persons being unhappy with the relationship between the petitioners could cause harm to the life and liberty of the petitioners, and in such circumstances, the Courts are then required to pass necessary directions for their protection.

Keeping in view the abovesaid facts and circumstances and without commenting upon the legality of the relationship or expressing any opinion on merits of the case, this Court deems it appropriate to dispose of the present petition with a direction to respondent No.3 to consider the representation dated 18.11.2021 (Annexure P-4) and to assess the threat perception to the petitioners and after considering the same, respondent No.3 shall take appropriate action in accordance with law.

Accordingly, the petition Criminal Writ Petition stands disposed of with abovesaid directions.

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

It is further clarified that the present order would not come in the way of respondent No.8 to raise any claim of maintenance or to enforce any other right against the petitioner No.2 in accordance with law. Any such application/petition filed would be decided independent of the observations made in the present order.

25.11.2021

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-Yes/No

Whether reportable:- Yes/No