

113

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP-11197-2021 (O&M)
Date of Decision: 26.11.2021

Himani and another

.. Petitioners

Vs.

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Deepak K. Bartia, Advocate for the petitioners.

...

Manoj Bajaj, J. (Oral)

By means of this writ petition under Article 226 Constitution of India, petitioners seek a writ of mandamus by way of directions to official respondent Nos.2 and 3 to protect their life and liberty from respondent Nos.4 and 5, as they are against petitioners' live-in-relationship.

Learned counsel contends that petitioner No.1 Himani, aged 18 years and petitioner No.2 Rohit Kumar aged 20 years and 06 months fell in love with each other, who decided to marry on attaining the age of majority. He states that when the relationship of the petitioners came to the knowledge of respondents No.4 and 5 (parents of petitioner No.1), they turned against their alliance and decided to marry her with a boy of their own choice, therefore, petitioner No.1 ran away from her house on 24.11.2021 and is now residing with petitioner No.2 in live in-relationship. He contends that the private respondents extended threats to the petitioners that they would implicate them in a false criminal case, therefore, a representation dated 24.11.2021 (Annexure P-5) was given to Superintendent of Police, District Yamuna Nagar, but till date, no action

has been taken upon it, therefore, the necessary directions be issued by providing protection to the petitioners.

During the course of hearing, it is not disputed by the learned counsel that the petitioners have started residing together in live-in relationship only w.e.f. 24.11.2021 and in response to the query that whether they have taken a house on rent, learned counsel has stated that for the time being, they have been living in a hotel.

After hearing the learned counsel for the petitioners, this Court finds that the apprehension of threat expressed by the petitioners does not seem to be genuine, as there is a specific pleading in para 7 of the petition that petitioner No.1 has been given shelter by petitioner No.2 and his parents and are taking care of her needs. In the memo of parties also, address of petitioner No.2 has been shown as place of residence of both the petitioners. Further, the petitioners have expressed an apprehension that the private respondents may falsely implicate the petitioners in some criminal case and in the considered opinion of this Court, this apprehension is misplaced, as admittedly, no complaint has been made so far against them by the private respondents. Even, if it is assumed, that a complaint is given to the police by any of the private respondents against the petitioners, then it cannot be construed as threat to their life and liberty, as private respondents are also free to avail their remedy in law in case, they feel that some offence has been committed.

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.

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.

In view of above, the petition has been filed without a valid cause of action, therefore, the petitioners deserves to be saddled with costs.

Resultantly, the writ petition is dismissed with costs of Rs.25,000/- to be borne by the petitioners and it is ordered that the same be deposited with the Institute of Blind, Sector-26, Chandigarh within a period of two months, failing which the Chief Judicial Magistrate, Yamuna Nagar shall ensure the recovery and deposit of the costs, in accordance with law.

26.11.2021
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No