

113

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

CRWP-157-2022

Date of decision : 10.01.2022

Smile Rani and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Nikhil Sharma, Advocate for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

The present Criminal Writ Petition has been filed under Articles 226/227 of the Constitution of India for directing respondent Nos.2 and 3 to protect the life and liberty of the petitioners.

The petitioners are living in “*Live in Relationship*”. It has been stated that date of birth of petitioner No.1 namely Smile Rani is 09.01.2004 as is apparent from her Aadhaar Card (Annexure P-1). The date of birth of petitioner No.2 namely Udey Piwal is 01.01.2004 as is apparent from his Aadhaar Card (Annexure P-2). Although, petitioner No.2 is major but is not of marriageable age. Both the petitioners are unmarried and are living in “*Live in Relationship*” out of their free will and without any pressure. It has

further been stated that the petitioners have given a detailed representation dated 04.01.2022 (Annexure P-3) to respondent No.2-Senior Superintendent of Police, Fazilka.

This Court has considered the facts as stated in the petition as well as the accompanying Annexures. This Court is aware of the fact that petitioner No.2 is not of marriageable age and that petitioners even as per their own case have not married and are living in “*Live in Relationship*”.

The issue as to whether protection of life and liberty should be granted to a couple in a “*Live in Relationship*” is no longer res integra.

Reference in this regard may be made to the **decision dated 09.08.2021** in **CRWP-7451-2021** titled **Tamnna and another Vs. State of Punjab and others**, in which in a similar case of “*Live in Relationship*”, this Court was pleased to direct the Senior Superintendent of Police, Patiala to look into the threat perception of the petitioners therein and pass appropriate order. Relevant portion of the order dated 09.08.2021 in CRWP-7451-2021 is reproduced hereasunder:-

“Petitioners have prayed for issuance of necessary directions to the official respondents for protecting their civil/personal rights and liberties from being invaded by the private respondents.

Petitioners are living in live-in relationship.

Learned counsel for the petitioners submits that petitioner No.1 is more than 18 years of age. Petitioner No.2 is more than 18 years of age, but he has not attained the marriageable age of 21 years.

Precisely, in the context of aforesaid relief, petitioners have approached the Senior Superintendent of Police, Patiala, District Patiala/respondent No.2 by way of

representation dated 04.08.2021 (through courier).

At this stage, this Court is only concerned with lives and personal liberties of the petitioners.

Notice of motion to respondents No.1 to 3.

On the asking of the Court, Mr. Sandeep Kumar, D.A.G., Punjab accepts notice on behalf of State-respondents No.1 to 3.

At this stage, without meaning anything on the merits of the case and without commenting upon relationship or otherwise of the petitioners, respondent No.2 is directed to look into the grievance of the petitioners for which a representation has already been filed by the petitioners on 04.08.2021. Respondent No.2 is directed to assess the threat perception of the petitioners. It is made clear that this Court has not commented upon validity of relationship or otherwise of the petitioners in any manner. Respondent No.2 would be fully empowered to look into the threat perception of the petitioners by devising his/her own mechanism and pass appropriate order on the representation dated 04.08.2021 preferably within a period of one month from the date of receipt of certified copy of this order.

Petition stands disposed of accordingly.”

It is also relevant to mention here that Coordinate Bench of this Court had dismissed one Criminal Writ Petition bearing CRWP-4199-2021 vide order dated 11.05.2021 where the petitioners were also in “*Live in Relationship*”. Relevant portion of the said order dated 11.05.2021 passed in CRWP-4199-2021 is reproduced hereunder:-

“Petitioners Gulza Kumari and Gurwinder Singh have filed the present petition stating that presently they are residing together, though, they intend to get married shortly; they are apprehending danger to their lives at

hands of parents of petitioner No.1-Gulza Kumari. As a matter of fact, the petitioners in the garb of filing the present petition are seeking seal of approval on their live-in-relationship, which is morally and socially not acceptable and no protection order in the petition can be passed. The petition stands dismissed accordingly.”

The same matter was, however, taken to Hon'ble the Supreme Court of India in Special Leave to Appeal (Criminal) No.4028 of 2021 and the Hon'ble Supreme Court of India had vide its judgment dated 04.06.2021 disposed of the same in the following terms:-

“The petitioners in both the petitions are stated to have represented to the Superintendent of Police.

The grievance is that the representation(s) has not been considered by the police.

We have gone through the representation(s). we dispose of both the petitions granting liberty to the petitioners to supplement their representation to the Superintendent of Police.

Needless to state that since it concerns life and liberty, the Superintendent of Police is required to act expeditiously in accordance with law, including the grant of any protection to the petitioners in view of the apprehensions/threats, uninfluenced by the observations of the High Court.

The Special Leave Petitions stand disposed of.

Pending applications shall also stand disposed of.”

The aspect of life and liberty was considered to be of paramount importance and thus, Superintendent of Police in the said case was directed to act expeditiously in accordance with law, including the grant of any protection to the petitioners therein.

Neither this Court wishes to go into the merits of the present case nor wants to comment upon the relationship of the petitioners but the only concern is with regard to their life and liberty, protection of which is of paramount consideration.

Notice of motion to respondent Nos.1 to 3 only.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of respondent Nos.1 to 3. He has stated that he has no objection in case, respondent No.2-Senior Superintendent of Police, Fazilka, looks into the representation dated 04.01.2022 (Annexure P-3) with a limited prayer for only protection of life and liberty of the petitioners and takes appropriate action, in accordance with law.

After considering the abovesaid facts and without commenting upon the legality of the relationship or 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 04.01.2022 (Annexure P-3) and to assess the threat perception to the petitioners and after considering the same, respondent No.2 shall 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.

10.01.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No