

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

CRWP-523-2022(O&M)

Date of decision : 20.01.2022

Aakash and Another

.....Petitioner(s)

versus

State of Punjab and Others

.....Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Amandeep Singh Gulati, Advocate for the petitioners.

Mr. H.S. Multani, AAG Punjab.

ALKA SARIN, J. (ORAL)

Heard in virtual mode.

The present criminal writ petition has been filed under Articles 226/227 of the Constitution of India for enforcement of fundamental right of the petitioners' seeking protection of their life and liberty as enshrined under Article 21 of the Constitution of India.

In brief, the facts relevant to the present case are that petitioner No.1 is aged more than 20 years, his date of birth being 01.01.2002, and petitioner No.2 is more than 22 years old, her date of birth being 25.01.2000. In support of the age proof, petitioner Nos.1 and 2 have appended photocopies of their Aadhaar Cards as Annexures P-1 and P-2, respectively. It is averred that both the petitioners fell in love and respondent Nos.4 to 6, who are the parents/relatives of petitioner No.2, being conservative, orthodox and fanatic, are against the relationship of the petitioners. It is stated that petitioner No.2 left her parental home of her own will on 10.12.2021 and joined the company of petitioner No.1 and both the

petitioners are in live-in-relationship. Since the private respondents are threatening to eliminate the petitioners, the petitioners have submitted a representation dated 14.01.2022 (Annexure P-3) to the Senior Superintendent of Police, District SAS Nagar (Mohali) - respondent No.2. However, no action has been taken thereon. Learned counsel for the petitioners would further contend that at this stage he limits his prayer and would be satisfied if a direction is issued to respondent No.2 to decide the said representation dated 14.01.2022 (Annexure P-3).

Notice of motion.

On the asking of the Court, Mr. H.S. Multani, AAG Punjab, who has joined the session through video conferencing, accepts notice on behalf of respondent nos.1 to 3. Since the case is not being decided on merits, the service of notices upon the private respondents is dispensed with.

Heard learned counsel for the parties.

In the present case, this Court, without expressing any opinion on the validity of the alleged live-in-relationship of the petitioners, is required to consider whether the apprehension of the petitioners needs to be addressed.

The petitioners are both major and have every right to live their lives as they desire within the four corners of the law. Society cannot determine how an individual should live her or his life. The Constitution of India guarantees every individual the right to life, and the choice of a partner is an important facet of the right to life. In the matter of *Shafin Jahan vs. Asokan K.M. [(2018) 16 SCC 368]* the Supreme Court reiterated the right of choice of an adult. It was *inter alia* held:-

“86. The right to marry a person of one's choice is integral to Article 21 of the Constitution. The Constitution guarantees the right to life. This right cannot be taken away except through a law which is substantively and procedurally fair, just and reasonable. Intrinsic to the liberty which the Constitution guarantees as a fundamental right is the ability of each individual to take decisions on matters central to the pursuit of happiness. Matters of belief and faith, including whether to believe are at the core of constitutional liberty. The Constitution exists for believers as well as for agnostics. The Constitution protects the ability of each individual to pursue a way of life or faith to which she or he seeks to adhere. Matters of dress and of food, of ideas and ideologies, of love and partnership are within the central aspects of identity. The law may regulate (subject to constitutional compliance) the conditions of a valid marriage, as it may regulate the situations in which a marital tie can be ended or annulled. These remedies are available to parties to a marriage for it is they who decide best on whether they should accept each other into a marital tie or continue in that relationship. Society has no role to play in determining our choice of partners.”

Though the issue in hand is not with regard to the validity of the live-in-relationship of the petitioners, but the fact is that the petitioners are seeking protection of life and liberty as envisaged under Article 21 of the Constitution of India. Article 21 of the Constitution of India provides for protection of life and personal liberty and further lays down that no person shall be deprived of his life and personal liberty except as per the procedure established by law.

In view of the above discussion and without expressing any opinion with regard to the veracity of the contents of the petition and the submissions made by learned counsel for the petitioners, the present petition is disposed off with a direction to Senior Superintendent of Police, SAS Nagar (Mohali) – respondent No.2 – to decide the representation dated 14.01.2022 (Annexure P-3) submitted by the petitioners and take necessary action as per law.

It is, however, made clear that this order shall neither be construed as an expression of opinion qua the veracity of the contents of the present petition nor as a stamp of this Court on the validity of the alleged live-in-relationship of the petitioners and shall have no effect on any other civil or criminal proceedings, if any, instituted/pending against them.

Disposed off accordingly.

20.01.2022
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO