

CRM-W-112-2022 in/and
CRWP-609-2022

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(110+201)

CRM-W-112-2022 in/and
CRWP-609-2022
Date of decision: - 04.02.2022.

Samandeep Singh and another

....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. G.S. Sidhu, Advocate
for Mr. Mohit Kumar, Advocate
for the applicants-petitioners.

Mr. Karanbir Singh, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

CRM-W-112-2022

Present application has been filed for placing on record
certain documents as Annexures P-6 to P-9.

Application is allowed, as prayed for. Documents
(Annexures P-6 to P-9) are taken on record.

CRWP-609-2022

The present Criminal Writ Petition has been filed under
Article 226 of the Constitution of India for issuance of writ in the nature
of mandamus for directing respondents Nos.1 to 3 to protect the life and

liberty of the petitioners.

Learned counsel for the petitioners has submitted that petitioner No.1 was born on 20.09.2002 and is thus a major, but is less than 21 years of age. Reliance, to prove the age of petitioner No.1, has been placed upon Aadhar Card (Annexure P-1). It is further submitted that petitioner No.2 was born on 01.11.2001 and for the same, reliance has been placed on record Aadhar Card (Annexure P-2). It is submitted that petitioner No.2 is major and is of a marriageable age. It is further submitted that petitioners have married each other on 11.01.2022 and for the same, photographs (Annexure P -3) have been referred to. It is further submitted that the petitioners had earlier already filed two petitions. The first petition was dismissed on 27.12.2021 on the ground that pleadings on record were wholly insufficient for this Court to infer any imminent danger to the life and liberty of the petitioners and subsequently, second petition was dismissed as withdrawn on 10.01.2022, but both the said petitions were filed when the petitioners were in a live-in-relationship and it is after the passing of the said orders, the petitioners have married each other. It is further submitted that now the petitioners have made a specific averment with respect to the threat to their life and liberty and regarding the same, even representation dated 12.01.2022 (P-4) has been referred to.

Learned counsel for the petitioners has relied upon a judgment passed by a Coordinate Bench of this Court in case titled as ***'Jashanpreet Kaur and another Vs. State of Punjab and others'***,

reported as **2019(4) RCR (Civil) 183**, in which case although, girl therein was aged about 15 years and 8 months and boy was aged about 19 years and 3 months, yet the Coordinate Bench, after considering the provisions of Hindu Marriage Act, 1955, was pleased to protect the life and liberty of the petitioners therein. The relevant portions of the said judgment is reproduced hereinbelow:-

“1 to 5 xxx xxx

6. Facts, as pleaded in the petition, succinctly are that the petitioner No.1, a minor girl born on 04.10.2003 and petitioner No.2, a boy born on 10.03.2000, though a major, but not of marriageable age, purportedly are in love with each other and got married on 17.06.2019 at Panchkula according to Hindu Rites and Ceremonies. Photographs of their marriage have been appended with the petition.

7 to 16. xxx xxx

17. The issue in hand, however, is not marriage of the petitioners, but the deprivation of fundamental right of seeking protection of life and liberty. I have no hesitation to hold that Constitutional Fundamental Right under Article 21 of Constitution of India stands on a much higher pedestal. Being sacrosanct under the Constitutional Scheme it must be protected, regardless of the solemnization of an invalid or void marriage or even the absence of any marriage between the parties.

18. It is the bounden duty of the State as per the Constitutional obligations casted upon it to protect the life and liberty of every citizen. Right to human life is to be treated on much higher pedestal, regardless of a citizen being minor or a major. The mere fact that the petitioners are not of marriageable age would not deprive them of their fundamental right as envisaged in Constitution of India, being citizens of India.

19. In view of the discussion above, the Senior Superintendent of Police, Batala is directed to verify the contents of the petition particularly the threat perception of the petitioners and thereafter provide necessary protection qua their life and liberty, if

deemed fit.

20. *It is clarified that this order shall neither be treated as a stamp of this Court qua marriage of the petitioners nor any reflection on the merits of the contentions raised by them in the present petition.*

21. *The writ petition is, accordingly, disposed of. ”*

Learned counsel for the petitioners has submitted that the petitioners would be satisfied in case respondent No.2-Senior Superintendent of Police, Barnala is directed to look into representation dated 12.01.2022 (Annexure P-4) and after seeing threat perception to the petitioners, takes appropriate action in accordance with law.

Learned State counsel, on the other hand, has submitted that in the present case in fact FIR No.618 dated 28.12.2021, under Section 346 IPC, at Police Station City Barnala has been registered on the statement of Joginder Singh, who is father of petitioner No.2 and although respondent No.2 can look into the representation dated 12.01.2022 (P-4), but any order passed by this Court should not come in the way of the police in taking action, in accordance with law, in the said FIR.

Learned counsel for the petitioners has submitted that both the petitioners have already filed CRM-M-3739-2022 for quashing of the said FIR. It is further submitted that petitioner No.2 is major and is of a marriageable age and is married to and living with petitioner No.1 with her own choice and thus, the FIR under Section 346 IPC has been illegally registered.

After considering the abovesaid facts and without

commenting upon the legality of the marriage and expressing any opinion on merits of the case, the present Criminal Writ Petition is disposed of with a direction to respondent No.2 to look into the representation dated 12.01.2022 (Annexure P-4) and after considering the threat perception to the petitioners, respondent No.2 will take appropriate action in accordance with law.

It is however clarified that this order shall not debar the State from proceedings against the petitioners in the above-said FIR or in case the petitioners are involved in any other criminal case, in accordance with law.

February 04, 2022
naresh.k

**(VIKAS BAHL)
JUDGE**

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No