

- 114/7 CRWP-8809 of 2021
Rohit Kumar v. Stae of U.T. Chandigarh and others
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- 2) CRWP-5888 of 2021
Aaftab and another v. State of Haryana and others
- ****
- 3) CRWP-6017 of 2021
Kavita and another v. State of Punjab and others
- ****
- 4) CRWP-9892 of 2021
Anjali and another v. State of Haryana and others
- ****
- 5) CRWP-10527 of 2021
Sunpreet Singh and another v. State of Punjab and others
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- 6) CRWP-12052 of 2021
Bilal and another v. State of Haryana and others
- ****
- 7) CRWP-941 of 2022
Rajwinder Kaur and another v. State of Punjab and others
- ****

Present: Mr. Vinod K. Kanwal, Advocate,
for the petitioner in CRWP-8809 of 2021.

Mr. Varinder Basa, Advocate,
for the petitioners in CRWP-941 of 2022

Mr. Satya Pal Jain, Addl. Solicitor General of India, with
Ms. Saigeeta Srivastava, Central Govt. Counsel
for Union of India.

Ms. Vasundhara Dalal, Addl. P.P., U.T. Chandigarh.

Mr. Neeraj Poswal, AAG, Haryana

Mr. Rana Harjasdeep Singh, DAG, Punjab

Ms. Naveen Malik, Advocate,
for respondent no.5 in CRWP-8809 of 2021

All these petitions had been clubbed together in view of the fact

that the petitioners herein are seeking protection of life and liberty upon them being in live-in relationships with each other, with the following order having been passed on 15.09.2021 in CRWP-8809 of 2021:-

“Learned counsel for the petitioner submits that the petitioner and the alleged detainee, whose name is given in paragraph 2 of the petition, are in a live-in relationship with each other, both being of the age of majority, but that respondents no.5 to 8, with the assistance of respondent no.4 (shown to be an Assistant Sub Inspector of Police), have forcibly taken her away from the custody of the petitioner and that therefore, with the girl being an adult, her custody deserves to be restored.

First of course, it is to be noticed that there is no firm proof of the age of the petitioner at all other, than a copy of his Aadhar Card annexed as Annexure P-1 with the petition, which is no firm proof of age in view of the fact that no firm proof of age is usually asked for at the time of issuance of such cards.

Other than that, even before notice of motion has been issued, Ms.Vasundra Dalal Anand, Additional Public Prosecutor, UT, Chandigarh, has appeared on advance notice of the petition having been received by respondents no.1 to 3.

She submits that the alleged detainee has already made a statement in Police Station, Sector 34, Chandigarh (as recorded by ASI Durgesh), to the effect that she is living with her parents, i.e. respondents no.5 and 6, of her own will and that she is studying in a college in Karnal, and does not wish to live with the petitioner.

Obviously, with the presence of learned Addl. Public Prosecutor, UT, Chandigarh, issuance of formal notice to respondents no.1 to 3 stands waived and therefore, without issuing notice to respondents no.4 to 8 at this stage, the SSP, UT, Chandigarh, is directed to depute a lady Sub Inspector alongwith two other lady police officials, who would take the alleged detainee to the learned Area Magistrate concerned, where she would record a statement as to whether she wishes to stay with the

petitioner or with respondents no.5 and 6.

It is made absolutely clear that at the time that she is taken to the court of the learned Magistrate, neither would respondents no.4 to 8 or any other person from her family, nor the petitioner, accompany her even to the court complex, i.e. she would be taken only by herself to the court complex by the police officials, and onto the court of the learned Area Magistrate, where she would record her statement with the Magistrate as she wishes, with regard to with whom she wishes to reside.

She would also take with her documentary proof of her age; and if the learned Area Magistrate finds that she is, as per said documentary proof, below the age of 18 years, even if then she expresses her wish to reside with the petitioner, she would be returned to the custody of her parents, and if she is above the age of 18 years and states that she wishes to reside with the petitioner, then a report in that regard would be made to this court before the next date of hearing, but with her to be returned to her parents' custody at this stage, till at least the age of the petitioner is determined.

In view of the fact that the petitioner is residing in Karnal (as per the memo of parties), notice is also issued to respondents no.9 and 10, i.e. the SP, Karnal and the SHO, Police Station Assandh, with Mr. Neeraj Poswal, AAG, Haryana, accepting notice at the asking of the court.

Copies of the petition be handed over to the learned Addl.P.P., UT, Chandigarh as also to the learned AAG, Haryana, by learned counsel for the petitioner today itself.

The SP, Karnal, is also directed to determine from the educational institution that the petitioner last studied in, his date of birth as per documentary evidence.

Naturally, if he is found to be less than 18 years of age, counsel for the petitioner would be required to address arguments as to how this court would permit him, even as per the wish of the alleged detainee (if she expresses that wish at all), to be in a live-in

relationship with the alleged detainee.

Adjourned to 24.09.2021.

It is to be noticed specifically that upon a copy of the petition having been handed over to the learned Addl. PP, UT, Chandigarh, Ms. Anand, she submits that in fact even in the petition it is not stated that the petitioner and the alleged detainee ever lived together in a live-in relationship, but only that they wished to do so, and upon the alleged detainee having come to a park, she had been taken away from there on a complaint made at the police beat box in Sector 46, Chandigarh, (with learned counsel for the petitioner however submitting that in fact she agreed to live with the petitioner).”

Today, Mr. Satya Pal Jain, learned Addl. Solicitor General of India, informs this court that as per his instructions in fact an amendment to the Prohibition of Child Marriage Act, 2006, has been proposed, with a Bill already produced in Parliament for that purpose, to bring the marriageable age for females also upto 21 years of age (from 18 years), to bring them on par with males.

However, as regards live-in relationships, no such bill has been introduced so far.

As already observed by this court in the aforesaid order (and in subsequent orders passed in different cases), the problem which is now coming up before courts is that adolescents between the ages of 18 and 21 years of age are coming up seeking protection of life and liberty upon being live-in relationships/or seeking to be in live-in relationships with protection to be granted to them.

No Act governs any such relationship and once a person has attained majority in terms of the Majority Act, 1875, (i.e. 18 years of age), it

would be difficult for a court to refuse such protection; and therefore the Union of India (in the Ministry concerned) would file a response to the aforesaid predicament, by way of an affidavit of at least a Joint Secretary to the Government of India, in the Ministry concerned, as to what is proposed, to try and ensure that many adolescents with impressionable minds (not actually fully matured though they otherwise, technically, are of the age of majority in terms of the aforesaid Act), do not start living together and later start regretting such decisions, obviously also causing trauma to their parents and family.

At this stage, learned counsel for the petitioner in CRWP no.8809 of 2021 submits that the petitioners may be allowed to withdraw the petition itself, as the petitioners and respondents no.5 to 8 have reached a settlement in the matter, with the petitioners having decided not to live together as yet at least.

The said petition is consequently ordered to be dismissed as having been withdrawn, with the affidavit to be filed on behalf of the Union of India, to be so filed in any other connected petition.

Adjourned to 21.03.2022.

Naturally, as regards interim orders were already passed in the remaining cases, they would continue to operate till the next date of hearing.

CRWP-941 of 2022

On 07.02.2022 the following order had been passed by this court:-

“Case heard via video conferencing.

By this petition, the petitioners seek protection of life and liberty.

They are stated to be in a live-in-relationship, with petitioner No.1 shown to be 24 years of age and with petitioner No.2 shown to be 20 years of age and with petitioner No.1 stated

to be otherwise married to respondent No.4 and with respondents No.5 to 8 shown to be her brothers in-law.

Learned counsel submits that petitioner No.1 not being in a good relationship with respondent No.4, she decided to leave his company and to start living with petitioner No.2 who is otherwise of the age of majority.

Notice of motion.

Mr. Saurav Khurana, DAG, Punjab, accepting notice at the asking of the court on behalf of respondents No.1-3, with respondents No.4 to 8 to be served by normal process.

Though petitioner No.2 is not of marriageable age in terms of the provisions of the Hindu Marriage Act, 1955 as also the provisions of the Child Marriage Act, 2006, yet, firstly of course this being a petition seeking protection of life and liberty which is a basic fundamental right enshrined in Article 21 of the Constitution of India, and secondly, Section 497 of the IPC has been struck down as being unconstitutional by the Supreme Court, in “**Joseph Shine v. Union of India (Writ Petition(Criminal) No.194 of 2017 decided on 27.09.2018)**”, the SSP Amritsar Rural and SHO Police Station Zhander, District Amritsar are directed to ensure that the life and liberty of the petitioners are duly protected.

Adjourned to 07.03.2022.

To be heard along with CRWP No.8809 of 2021, with all such petitions to be listed in the urgent motion list on that date.”

Learned State counsel submits that as per his instructions, the petitioners are of the same age as is shown in the memo of parties (24 years of age and 20 respectively).

Learned counsel for the petitioners submits that in fact even in this case the petitioners have settled their differences with respondents no.4 to 8 and do not wish to pursue this petition.

Dismissed as withdrawn.

Naturally, if the petitioners perceived any threat in future, they would approach the SSP, Rural Amritsar, who would ensure that their lives and liberty are duly protected, as per law.

Disposed of as above.

Counsel for the petitioners in the other petitions (except in CRWP no.8809 of 2021 and 941 of 2022) not having appeared, adjourned to 21.03.2022.

A copy of this order be also placed on the file of the other connected matters.

March 07, 2022
dinesh

(AMOL RATTAN SINGH)
JUDGE