

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

258

CRWP-1997-2022
Decided on : 23.03.2022

Vandna and another

. . . Petitioners

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Janak Singh Bhinder, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Vaibhav Narang, Advocate
for respondent Nos. 4 to 7.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Article 226 of the Constitution of India for issuance of a writ especially in the nature of mandamus directing the official respondents for protecting the life and liberty of the petitioners.

On 07.03.2022, this Court was pleased to pass the following order:-

“Learned counsel for the petitioners has submitted that although petitioner No.1 is stated to be aged about 17 years and 11 months but she would turn

major on 15.03.2022. Petitioner No.2 is stated to be 19 years of age and is although major but is not of marriageable age and both the petitioners are living together in a "Live in Relationship". It is further submitted that the petitioners have given a detailed representation dated 01.03.2022 (Annexure P-3) to respondent No.2-Senior Superintendent of Police, Fazilka with regard to protection of their life and liberty.

Learned counsel for the petitioners has further relied upon the judgment passed by the Coordinate Bench of this Court in case **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 ”
Notice of motion.*

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of respondent Nos.1 to 3 and seeks time to get instructions. Mr. Vaibhav Narang, Advocate appears on behalf of

respondent Nos.4 to 7 and has submitted that in the present case, FIR No.21 dated 04.03.2022 under Sections 363 and 366 of IPC has been registered against petitioner No.2 and he is likely to be arrested in the near future. It is also submitted that petitioner No.2 has earlier gone to Rehabilitation Centre twice in Bikaner at Rajasthan.

Adjourned to 23.03.2022.

In the meantime, without expressing any opinion on the merits of the case and without commenting upon the legality of the marriage, respondent No.2-Senior Superintendent of Police, Fazilka is directed to look into representation dated 01.03.2022 (Annexure P-3) and after considering the threat perception to the petitioners, 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 FIR of which they are accused.

Petitioner No.1 is also directed to be present in the Court on the next date of hearing.”

The petitioner No. 1 has now become major as her date of birth is 15.03.2004. Petitioner No. 1 is present in person and she has stated that she wishes to reside with petitioner No. 2.

Learned counsel for respondent Nos. 4 to 7 has requested that the respondent Nos. 4 to 7 want to meet the petitioner No. 1 but however, petitioner No. 1 has refused to meet them.

Keeping in view the abovesaid facts and circumstances, the present Criminal Writ Petition is disposed of with direction to respondent No.2- Senior Superintendent of Police, Fazilka to look into

the representation dated 01.03.2022 (Annexure P-3) 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 proceeding against the petitioners, if involved in any other case.

(VIKAS BAHL)
JUDGE

March 23rd, 2022
Mehak

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No