

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

**CRWP-2010-2022 (O&M)
Date of decision : 07.03.2022**

Jaspreet Kaur and Another

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Harpreet Maini, Advocate for the petitioners.

ALKA SARIN, J. (ORAL)

Heard in virtual mode.

This is a criminal writ petition under Article 226 of the Constitution of India for issuance of directions to respondent nos.2 and 3 to protect the life and liberty of the petitioners at the hands of respondent nos.4 and 5.

The facts, as set out in the petition, are that the date of birth of petitioner no.1 is 28.07.2002 as per her Aadhaar Card appended as Annexure P-1 to the petition and date of birth of petitioner no.2 is 01.01.1999 as per his Aadhaar Card appended as Annexure P-2. It has further been averred in the petition that petitioner no.1 was married to respondent no.4 and there is no child out of the wedlock. Respondent no.4 i.e. the husband of petitioner no.1 is an alcoholic and used to beat and harass petitioner no.1 and that no one has come forward to help her. *Qua* petitioner no.2 it has been averred that he is unmarried. It is further the case set up that the petitioners started liking each other and fell in love and decided to reside with each other as

both the petitioners understand each others' nature and habits. It is alleged that the petitioners are now receiving threats to their life and liberty from the private respondents. In this regard a representation was also filed on 28.02.2022 (Annexure P-3) with the Senior Superintendent of Police, District Faridkot seeking protection of their life and liberty. However, no action has been taken *qua* the same.

Notice of motion.

On the asking of the Court, Ms. A.K. Khurana, DAG Punjab accepts notice on behalf of respondent nos.1 to 3. Since the present petition is not being decided on merits, service on the other respondents is dispensed with.

The learned State counsel has argued that petitioner No.1 is married and has not obtained a divorce from her spouse and, hence, the present petition is not maintainable.

I have heard learned counsel for the parties.

In the present case the petitioner No.1 is married and has not obtained a divorce from her spouse. The petitioners are, however, living together in a live-in-relationship as per the averments made in the petition. This Court, at this stage, is not to consider the acceptability of such a relationship by the society or the fact that petitioner No.1 has chosen to be in a relationship despite not having obtained a divorce from her spouse. The petitioners no doubt would have to face the law as and when any proceedings are brought against them and the law would take its course. What needs to be considered by this Court is the life and liberty of a person

or persons who approach this Court with such a grievance as that raised in the present petition.

The Constitution of India guarantees every individual the right to life and liberty. The petitioners are seeking protection of their 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 or her personal liberty except as per the procedure established by law. Admittedly, in the present case, petitioner No.1 has not obtained a divorce from her spouse. However, the apprehension of the petitioners needs to be addressed. No doubt the law would take its own course in case the spouse, respondent No.4, was to file a case against the petitioners. However, no one can be permitted to take the law in their own hand and this Court cannot shut its eyes to the fact that the apprehension of the petitioners needs to be addressed. Merely because the petitioners are in a relationship, which may not be acceptable to society, they cannot possibly be deprived of the fundamental rights as envisaged in the Constitution of India. Irrespective of the status of the relationship of the petitioners, as individuals approaching this Court for protection of life and liberty as enshrined under Article 21 of the Constitution of India, this Court is duty bound to ensure that no person is deprived of his or her right to life or personal liberty except according to the procedure established by law. The Court in the present case is not dealing with the validity or social acceptance of the relationship of the petitioners but is only concerned that the threat perceived by the petitioners to their life and liberty, if found to be genuine, is addressed.

In view of the above 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 respondent no. 2 - Senior Superintendent of Police, District Faridkot - to decide the representation dated 28.02.2022 (Annexure P-3) after hearing all parties concerned and in accordance with law.

It is, however, made clear that any observations made herein shall neither be treated as a stamp of this Court *qua* the relationship between the petitioners nor an opinion on the contentions raised in the present petition and shall also have no effect on any other civil or criminal proceedings, if any, instituted/pending against them.

Disposed off accordingly.

(ALKA SARIN)
JUDGE

07.03.2022
Yogesh Sharma

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