111 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP No.3108 of 2022
Date of Decision: 05.04.2022

Ravinder Kaur and another ...Petitioners

Versus

State of Punjab and others …Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. L.S. Sidhu, Advocate for the petitioners.

Ms. Jaspreet Kaur, AAG, Punjab.

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ANOOP CHITKARA, J.

Fearing for their lives and liberty at the hands of the private respondents, the petitioners who claim to be in a live-in relationship, after crossing eighteen years of age, have come up before this Court by invoking their fundamental rights of life guaranteed under Article 21 of the Constitution of India, seeking direction to the State to protect them from the private respondents.

2. Notices served upon the official respondents through the State's counsel. Given the nature of the order that this Court proposes to pass, neither the response of official respondents nor the issuance of notices to the private respondents is required

3. Learned counsel for the petitioners submits that petitioner No.1 has a subsisting marriage. However, divorce proceedings in the same have been initiated.

4. The times are changing fast, even in those lands that were left behind and stuck with the old ethos and conservative social milieu. We are governed by the rule of law and follow the Constitutional dharma. In the ever-evolving society, evolving the law with it, the time is to shift perspective from didactics of the orthodox society, shackled with the strong strings of morality supported by religions to one that values an individual’s life above all. Every person in the territory of India has an inherent and indefeasible fundamental right to life flowing from Article 21 of India’s constitution and the State is duty bound to protect life.

5. In Mohd Arif @ Ashfaq v. Registrar, Supreme Court of India, (2014) 9 SCC 737, the Constitutional bench of Hon’ble Supreme Court holds,

> [17]. As the determination of this case has to do with the fundamental right to life, which, among all fundamental rights, is the most precious to all human beings, we need to delve into Article 21

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which reads as follows:

> "21. Protection of life and personal liberty.-No person shall be deprived of his life or personal liberty except according to procedure established by law."
>
> [18]. This Article has its origin in nothing less than the Magna Carta, (the 39th Article) of 1215 vintage which King John of England was forced to sign by his Barons. It is a little known fact that this original charter of liberty was faulted at the very start and did not get off the ground because of a Papal Bull issued by Pope Innocent the third declaring this charter to be void. Strangely, like Magna Carta, Art. 21 did not get off the ground for 28 years after which, unshackled, it has become the single most important fundamental right under the Constitution of India, being described as one of a holy trinity consisting of a 'golden triangle' (see Minerva Mills v. Union of India, 1981 1 SCR 206 at 263), and being one of two articles which cannot be eclipsed during an emergency (Article 359 as amended by the Constitution 44th Amendment).

6. If the allegations of apprehension of threat to their lives turn out to be true, it might lead to an irreversible loss. This Court is not adjudicating on the validity of petitioners' relationship but adhering to its fundamental duty of guarding their lives. Thus, in the facts and circumstances peculiar to this case, it shall be appropriate that the concerned Superintendent of Police, SHO, or any officer to whom such powers have been delegated or have been authorized in this regard, provide appropriate protection to the petitioners for one week from today. However, if the petitioners no longer require the protection, then at their request it may be discontinued even before the expiry of one week. After that, the concerned officers shall extend the protection on day-to-day analysis of the ground realities or upon the oral or written request of the petitioners.

7. This protection is subject to the stringent condition that from the time such protection is given, the petitioners shall not go outside the boundaries of the place of their residence, except for medical necessities, to buy household necessities, and for bereavements in the families of the persons who are close to them. This restriction saves the petitioners from apprehended risk and ensures that the protection is not flaunted.

8. It is clarified that there is no adjudication on merits and that this order is not a blanket bail in any FIR. It is further clarified that this order shall not come in the way if the interrogation of the petitioners is required in any cognizable case. It shall also be open for the petitioner(s) to approach this Court again in case of any fresh threat perception.

9. *There would be no need for a certified copy of this order, and any Advocate for the Petitioner and State can download this order and other relevant particulars from the*

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official web page of this court and attest it to be a true copy. The concerned officer can also verify its authenticity and may download and use the downloaded copy for immediate use.

Petition is allowed to the extent mentioned above. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

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Whether speaking/reasoned: Yes
Whether reportable: No.

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