

CRWP-8246 of 2022

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

CRWP-8246 of 2022
Date of Decision: 30.08.2022

Mohini and another

.... Petitioners

Versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. A.K. Dahiya, Advocate, for the petitioner.
Mr. G.S. Sandhu, Deputy Advocate General, Punjab.

ASHOK KUMAR VERMA, J. (ORAL)

Through this petition under Articles 226/227 of the Constitution of India prayer has been made for directing respondents No.1 to 3 to protect the life and liberty of the petitioners at the hands of respondents No.4 to 6 as the petitioners are in live-in-relationship.

Learned counsel for the petitioners contends that petitioner No.2-Dharmendra got married to one Sushila on 24.05.2015; due to temperamental differences, dispute arose between them and they started living apart from 03.01.2017 and after four years with the intervention of the family members they resolved their dispute finally on 21.06.2021. Learned counsel further contends that since both the petitioners are in acquaintance with each other for a long time and finally after the settlement of petitioner No.2 with Sushila they developed relations and started liking each other. Therefore, since January, 2022 both are living

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together happily. However, private respondents are against their relationship. Learned counsel contends that petitioners are in a live-in-relationship with their own free will without any pressure. In support of his contentions learned counsel for the petitioners relied upon orders of this Court passed in ***CRWP-7874 of 2021 – Paramjit Kaur and another v. State of Punjab and others dated 03.09.2021; CRWP-10411 of 2021 – Amandeep Kaur and another v. State of Punjab and others dated 02.11.2021; CRWP-9821 of 2021 – Gurvinder Singh and another v. State of Punjab and others dated 13.10.2021*** and ***CRWP-10101 of 2021 – Shilpa and another v. State of Punjab and others dated 22.10.2021***.

I have heard learned counsel for the petitioners and perused the paperbook.

Learned counsel for the petitioners contends that the petitioners are apprehending danger to their life and liberty. On a query put to learned counsel for the petitioners as to the marital status of petitioner No.2 – Dharmendra, it has been stated that Annexure P-3 is a copy of settlement deed 21.06.2021 between petitioner No.2 and his wife Sushila Rawat whereby they have got a Panchayati divorce. Strangely, the learned counsel is relying upon a Panchayati divorce which has no recognition in the eyes of law. There is no decree of dissolution of marriage of petitioner No.2 by a Court of competent jurisdiction and his first marriage subsists in the eyes of law.

The Hindu Marriage Act was enacted in the year 1955. It is an Act to amend and codify the law relating to marriages among Hindus.

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The Hindu Marriage Act, 1955 is a complete Code and provides for the conditions of marriage as well as the procedure for divorce. After the enactment of the Hindu Marriage Act, 1955, marriages and divorce qua Hindus is governed by the procedure as set out in the Hindu Marriage Act, 1955. Section 4 of the said Act reads as under :

- “4. Overriding effect of Act - Save as otherwise expressly provided in this Act,*
- (a) any text, rule or interpretation of Hindu law or any custom or usage as part of that law in force immediately before the commencement of this Act shall cease to have effect with respect to any matter for which provision is made in this Act;*
- (b) any other law in force immediately before the commencement of this Act shall cease to have effect in so far as it is inconsistent with any of the provisions contained in this Act.”*

In view of Section 4 of the Hindu Marriage Act, 1955 all customs and usages ceased to have effect. The contention of the learned counsel that petitioner No.2 had sought and got a Panchayati divorce is thus an argument which cannot be accepted, which has no legs to stand in the eyes of law.

Article 21 of the Constitution of India provides that no person shall be deprived of his life and liberty except in accordance with law. The petitioners have approached this Court for protection of their life and liberty to live as a couple which cannot be considered in the facts and circumstances of the present case. However, as an individual either of the

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petitioners, if they apprehend any threat to their life or liberty, would be entitled to approach the Police for redressal of their apprehensions regarding threats to their life and liberty.

Without seeking divorce from his spouse petitioner No.2 is living a lustful and adulterous life with petitioner No.1. Thus, the present petition is held to be not maintainable at the behest of the petitioners who are stated to be in live-in-relationship. Such a relationship does not fall within the phrase “live-in-relationship” or “relationship” in the nature of marriage.

Dismissed.

August 30, 2022
R.S.

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No