

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

CRWP-8884 of 2022
Date of Decision: 15.9.2022

Gurdeep Singh and another

.... Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Mr.VS Punia, Advocate, for the petitioner.
Mr.Himmat Singh, DAG, Haryana

ASHOK KUMAR VERMA, J. (ORAL)

Through this petition under Articles 226 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.5 to 6 as the petitioners are in live-in-relationship.

Learned counsel for the petitioners contends that petitioner No.2-Arsida got married to Juber Khan on 14.7.2012 and out of the said wedlock, three minor children i.e. one daughter aged 9 years and two sons aged 7 years were born. It is said that petitioner no.2 has left her husband and is now living in live-in-relationship with petitioner no.1, without having got divorce from husband Jubair Khan. However, petitioner no.1 has given divorce to his earlier wife. Learned counsel further contends that both the petitioners are in acquaintance with each other for a long time and are having extra marital relationship with each

other. They are living in live-in-relationship. However, private respondents are against their relationship. They seek protection of their life and liberty.

I have heard learned counsel for the petitioners and perused the paper-book.

Indisputably, 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 in live-in-relationship which cannot be considered in the peculiar facts and circumstances of the present case. However, as an individual either of the 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 her spouse petitioner No.2 is living a lustful and adulterous life with petitioner No.1 without taking divorce from her lawful husband-Jubair Khan from whom three minor children i.e. one daughter aged 9 years, two sons aged 7 years have been born to petitioner no.2. Petitioner no.2 is a Muslim married woman. Divorce qua Muslim women is specifically governed by the procedure as set out under the provisions of Dissolution of Muslim Marriages Act, 1939. Section 2 of the aforesaid Act provides for grounds for decree for dissolution of marriage which reads as under:-

“2. Grounds for decree for dissolution of marriage:- A woman married under Muslim law shall be entitled to obtain

a decree for the dissolution of her marriage on any one or more of the following grounds, namely:

(i)that the whereabouts of the husband have not been known for a period of four years;

(ii)that the husband has neglected or has failed to provide for her maintenance for a period of two years;

(iii)that the husband has been sentenced to imprisonment for a period of seven years or upwards;

(iv)that the husband has failed to perform, without reasonable cause, his marital obligations for a period of three years;

(v)that the husband was impotent at the time of the marriage and continues to be so;

(vi)that the husband has been insane for a period of two years or is suffering from leprosy or a virulent venereal disease;

(vii)that she, having been given in marriage by her father or other guardian before she attained the age of fifteen years, repudiated the marriage before attaining the age of eighteen years: Provided that the marriage has not been consummated;

(viii)that the husband treats her with cruelty, that is to say,--

(a) habitually assaults her or makes her life miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment, or

(b) associates with women of evil repute or leads an infamous life, or

(c) attempts to force her to lead an immoral life, or

(d) disposes of her property or prevents her exercising her legal rights over it, or (e) obstructs her in the observance of her religious profession or practice, or

(f) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quran;

(ix) on any other ground which is recognised as valid for the dissolution of marriages under Muslim law: Provided that--

(a) no decree shall be passed on ground (iii) until the sentence has become final;

(b) a decree passed on ground (i) shall not take effect for a period of six months from the date of such decree, and if the husband appears either in person or through an authorised agent within that period and satisfied the Court that he is prepared to perform his conjugal duties, the Court shall set aside the said decree; and

(c) before passing a decree on ground (v) the Court shall, on application by the husband, make an order requiring the husband to satisfy the Court within a period of one year from the date of such order that he has ceased to be impotent, and if the husband so satisfies the Court within such period, no decree shall be passed on the said ground.”

Admittedly, without seeking divorce from her 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.

Further, it is well settled proposition of law that Article 21 of the Constitution of India is not an absolute right and is subject to the procedure stablished by law. The petitioners have approached this Court for protection of their life and liberty to live in a live-in-relationship as a couple which cannot be considered in the facts and circumstances of the present case. However, as an individual either of the petitioners, if they apprehend any threat to their life or liberty would be entitled to approach the Police in accordance with law.

Dismissed.

15.9.2022
MFK.

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No