

In the High Court of Punjab and Haryana at Chandigarh

CRWP No. 12304 of 2021 (O&M)
Date of Decision: 02.2.2022

Nirchal and another

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Munfaid Khan, Advocate
for the petitioners.

Mr. Tanuj Sharma, AAG, Haryana.

Mr. Vinay Kumar Pandey, Advocate
for the private respondents.

SURESHWAR THAKUR, J. (ORAL)

(Through video conferencing)

1. The present petition has been filed under Article 226 of the Constitution of India for issuance of directions to respondents No. 2 and 3, to give protection to the life and liberty of the petitioners, and, also against any interference in the peaceful life of the petitioners, being made at the behest of respondents No. 4 to 16.

2. The learned State Counsel, does not have any objection, to an order being made by this Court to the respondents concerned, to look into, and, decide through a speaking order, representation Annexure P-5.

3. However, learned counsel for the private respondents has urged, that even no direction can be made upon the official respondents concerned, to decide through a speaking order, the petitioners'

representation, as embodied in Annexure P-5, as the co-petitioners have entered into a void marriage, inasmuch as theirs being in the prohibited sapinda(s) relation. However, any declaration with respect to the afore prohibited marriage, being entered into amongst the petitioners, is not amenable to be made by this Court, rather is amenable to be made only by the Civil Court of competent jurisdiction. Therefore, the afore made prayer against any mandamus, being made upon the respondents concerned, to decide through a speaking order, the petitioners' representation (Annexure P-5), cannot be accepted.

4. Be that as it may, even if assuming that the co-petitioners have entered into a legally prohibited marriage, as arising from theirs being sapindas to each other. Nonetheless, there is no bar under law against both the petitioners, entering into a live-in-relationship. If it be so, and, subject to the above condition, the learned counsel for the private respondents, cannot oppose the making of a simpliciter order, upon the official respondents concerned, to decide through a speaking order, the petitioners' representation, and, as is carried in Annexure P-5.

5. Consequently, this Court directs the respondents concerned, to within three weeks hereafter, hence decide Annexure P-5, through a speaking order. The authorities concerned, while making a decision upon the representation (Annexure P-5), shall afford to all concerned, an adequate opportunity of personal hearing.

6. However, the afore order is subject to the condition that, upon the investigating officer, discovering credible evidence, with respect to the age of co-petitioner Nirchal, and, in case from the birth certificate concerned, it is clear that she is below 18 years, thereupon, upon, a

complaint being filed by the father of the afore, it is open for the investigating officer concerned, to draw an appropriate action, against the accused, in accordance with law. Nonetheless, he may not arrest him without issuing seven days notice upon him.

7. Petition is disposed of.

8. All the pending applications, are also disposed of.

9. A copy of this order be given dasti on payment of usual charges.

(SURESHWAR THAKUR)
JUDGE

February 02, 2022
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : Yes