

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(126)

CRWP-11395-2022

Date of decision: - 05.12.2022

Jatoon and another

....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Naresh Chander, Advocate,
for the petitioners.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

The present Criminal Writ Petition has been filed under Articles 226/227 of the Constitution of India for directing respondent Nos.1 to 4 to protect the life and liberty of the petitioners.

It is the case of the petitioners that they both are major, inasmuch as, petitioner No.1 was born on 01.01.1994 (petitioner No.1 has submitted an affidavit stating therein that her date of birth is 01.01.1994 and all the documents i.e., aadhar card, voter card etc. are in the possession of her parents) and petitioner No.2 was born on 02.03.1991 and have married each other on 21.11.2022, with their free consent and without any pressure. Reliance has been placed upon Aadhar Card (Annexure P-2) and marriage proof and photographs (Annexures P-3 and P-4). It is also stated by the learned counsel for the petitioners that a

detailed representation dated 22.11.2022 (Annexure P-5) has also been given to the Senior Superintendent of Police, SBS Nagar, with regard to the same.

Learned counsel for the petitioners has submitted that petitioner No.1 was earlier married and also has one daughter from the said marriage and in the year 2018, petitioner No.1 had taken Talaak from her earlier husband, thus, she is legally divorced in accordance with her religion as petitioner No.1 is a muslim. It is also submitted that the daughter from the first marriage is living with petitioner Nos.1 and 2.

Learned counsel for the petitioner has placed reliance upon a judgment of the Division Bench of this Court dated 03.09.2021 passed in **LPA-769-2021** titled as “**Ishrat Bano and another vs. State of Punjab and others**”. The relevant portion of the said judgment is reproduced hereinbelow:-

“The aspect which we are considering and dealing with is with regard to the threat to the life and liberty to the appellants as has been asserted by them. No doubt, in case a criminal case is registered against any of the parties, the law should take its own course, however, the life and liberty of any person who has approached the Court with such a grievance need to be taken care of and the protection be provided as permissible in law. No person can be permitted or allowed to take law in his hands and therefore, keeping in view the said aspect, we dispose of the present appeal by observing that the Senior Superintendent of Police, Maler Kotla, shall take into consideration the representation dated 17.08.2021 (Annexure P-5) submitted by the appellants and if some substance is found therein, take appropriate steps in accordance with law to ensure that the life and liberty is not jeopardized of the appellants at the hands of the private respondents. This direction shall not be construed in any manner to restrain the official respondents to proceed against the appellants in case there is some criminal case registered against them.

The law shall take its own course and it shall be open to the authorities/investigating agency to proceed against the appellants, if required in law and in accordance thereto.”

Thus, the Division Bench after considering the aspect of protection of life and liberty being of paramount consideration and without getting into the issue of whether the relationship between the parties was legal or not, granted them protection.

Notice of motion to respondent No.1 to 3 only.

On advance notice, Mr. Tarun Aggarwal, Sr. DAG, Punjab, appears and accepts notice on behalf of respondent Nos.1 to 4 and on a specific query put by this Court, learned State counsel has stated that he has no objection in case, respondent No.2-Senior Superintendent of Police, SBS Nagar, looks into the representation dated 22.11.2022 (Annexure P-5) and takes appropriate action in accordance with law.

After considering the abovesaid facts and without commenting upon the legality of the marriage and expressing any opinion on merits of the case, the present Criminal Writ Petition is disposed of with direction to respondent No.2 to look into the representation dated 22.11.2022 (Annexure P-5) and after considering the threat perception to the petitioners, respondent No.2 will take appropriate action in accordance with law.

It is, however, clarified that this order shall not debar the State from proceeding against the petitioners, if involved in any other case.

December 05, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?	Yes/No
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