

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-158-2023

Date of Decision: January 25, 2023

Manjot Singh and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Naveen Mahajan, Advocate,
for the petitioners.

SANJAY VASHISTH, J.

1. Manjot Singh (petitioner No. 1), aged 27 years, and Kajal (petitioner No. 2), aged 20 years, have approached this Court for issuance of a writ in the nature of mandamus directing respondent Nos. 2 and 3 to protect lives and personal liberty of the petitioners and also for issuance of directions to respondent Nos. 4 to 9 or their associates or any other person at their behest, not to interfere in the personal lives and liberty of the petitioners or to harass them in any manner against their wishes.

2. It is pleaded in the petition that petitioner No. 2 is a legally wedded wife of Jagroop Singh (respondent No. 9). Marriage between both of them was performed on 09.11.2021, however, no child was born out of the said wedlock. It is also pleaded in the petition that marriage of petitioner No. 2 was performed with respondent No. 9 against her wishes as she was having love affair with petitioner No. 1 from last three years. According to petitioner No. 2, she was unhappy with her first marriage as she was already in love affair with petitioner No. 1, thus, now after

leaving her husband (respondent No. 9), she has started living in a live-in relationship with her earlier friend, i.e. petitioner No. 1.

3. Conduct of petitioner No. 2 is surprising for the reason that marrying with respondent No. 9 is admitted by her, whereas already she was in love affair with petitioner No. 1 for the last three years. Even she has not cared to the provisions of law of the Hindu Marriage Act, 1955, where procedure for seeking divorce from the spouse is also provided. Thus, passing any such order directing to provide protection to the unacceptable relation to the society, and that too against the law prevailing in the country, would be in derogation to the provisions of the Hindu Marriage Act, 1955.

4. Even otherwise, it will be an attempt to seek approval of the relation of petitioners under the seal of the order of this Court. Relation of petitioner No. 1 with petitioner No. 2, in fact, amounts to committing of an offence under Section 494 IPC and naming it as “live-in relationship” is nothing but an eyewash to the society to come out of the other statutory restrictions.

5. Any relation which is against the provisions of law or is not permitted as per society’s customs, may be concerned persons are entitled to take their independent decision, cannot be allowed to continue by giving direction to the authorities to provide such persons special security for protection.

This Court cannot ignore the phenomena that any order passed under the Constitutional power enshrined under Article 226 of the

Constitution of India, would carry a different impact in the society as a whole, wherever the order is circulated or message reaches around. Passing any protection order would amount fixing a seal of approval by the High Court under Article 226 of the Constitution of India, to a relation which otherwise is illegal and unacceptable.

6. Rather, such petitions cannot be considered routine protection petitions. Any direction to the administration to grant protection, would be offending to the already married spouse, whose company has been left by his/her married life partner. Pain and agony of the hapless spouse, who is already married to the protection seeker(s), must not be ignored/forgotten while issuing direction to the State administration, to provide protection to the unwarranted relations of the petitioners.

7. Somehow, this Court has already taken almost similar view in the petitions of similarly situated petitioners/protection seekers and have dismissed the petitions. In the case of **Harpreet Kaur and another v. State of Punjab and others** (CRWP-10399-2021, decided on 01.1.2021 : Law Finder Doc Id # 1904930), Co-ordinate Bench of this Court has made the following observations:

“2. Perusal of file shows that petitioner No.1 Harpreet Kaur aged about 23 years is legally wedded wife of respondent No.4 Gurjant Singh, and without seeking divorce from her spouse she is living a lustful and adulterous life with petitioner No.2. Once petitioner No.1 is a married woman being wife of respondent No.4-Gurjant Singh, the act of petitioners particularly petitioner No.2 may constitute an offence under Sections 494/495 IPC. Such a relationship does not fall within the phrase “live-in-relationship” or “relationship” in the nature of marriage.

3. *Petitioners have no legal right for protection on the facts of the present case inasmuch as the protection as being asked may amount to protection against commission of offence under Section 494/495 IPC. This petition has been filed just to obtain a seal of this Court on their so called live-in-relationship. On the face of it, the representation (Annexure P-3) appears to be a fake document as no receipt or diary number of the office of Senior Superintendent of Police, Barnala is given or attached.*

4. *In view of the above, the present petition is dismissed.”*

8. In the case of Mohini and others v. State of Punjab and others (CRWP-8246-2022, decided on 30.08.2022 : Law Finder Doc Id # 2051954), petition for grant of protection to the life and liberty of the petitioners therein, was dismissed and the relevant part of the order says as under:-

“4. *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.*

5. *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. 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.”

6. *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.*

7. *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 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.*

8. *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.”

9. In view of the submissions addressed, facts noticed by this Court and following the orders passed by Coordinate Bench in similar

cases of similarly situated protection seekers, this Court does not find any reason to entertain prayer of the petitioners. Thus, this petition stands dismissed.

(SANJAY VASHISTH)
JUDGE

January 25, 2023
P Kapoor

Whether Speaking/Reasoned: **YES/~~NO~~**
Whether Reportable: **YES/~~NO~~**