

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

120

CRWP-10360-2023 (O&M)
Date of decision: 20.10.2023

Suman and another	Versus	 Petitioners
State of Punjab and others		... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Adarshdeep Singh, Advocate for the petitioners.
Mr. Dhruv Dayal, Additional A.G., Punjab.

ARUN MONGA, J. (ORAL)

Petition herein, inter alia, is for issuance of a writ in the nature of mandamus directing the respondents to protect the life and liberty of petitioners as they apprehend threat at the hands of private respondents No.4 to 10.

2. Facts, as pleaded in the petition succinctly are that petitioners are major and have been living together in a relationship for past few days. Petitioner No.1 (Suman) is already married to one Hem Raj. Out of this wedlock, one girl child was born who is residing with her mother and a *Panchayti* divorce has been taken by petitioner No.1 from her husband. It is stated that petitioner No.2 is also already married with respondent No.6 and out of this wedlock, two children were born and they are in custody of mother i.e. respondent No.6. In that sense, owing their respective matrimonial discord, petitioners are living together in an arrangement, what they have termed as live-in relationship.

3. Ever since they started staying together, private respondents No.4 to 10 have been threatening them with dire consequences. Apprehension is that parents may take law into their own hands and even kill both petitioners by tracing them from wherever they are.

4. In the circumstances, the petitioners approached respondent No.2 (Senior Superintendent of Police, Fazilka) and submitted a representation dated 16.10.2023 (Annexure P-5) seeking to safeguard their life and liberty, but no action is being taken on the same. Hence, the instant petition.

5. Notice of motion.

6. On advance service of copy of petition, Mr.Dhruv Dayal, learned Additional A.G., appears and accepts notice on behalf of respondent-State of Punjab. He submits that he has no objection in case respondent No.2 is directed to look into the representation of the petitioners on the aspect of threat perception and to take appropriate action, in accordance with law.

7. Given the nature of order being passed, there is no necessity to seek any return by the official respondents or even to serve the private respondents No.4 to 10.

8. Heard learned counsel for the parties.

9. In somewhat similar circumstances, I had an occasion to deal with a case titled 'Kanti and another Vs. State of Haryana and others' bearing CRWP-7908-2023 decided on 12.10.2023, wherein it was observed thus:-

“8. The key issue at hand is not the legality of the petitioners' relationship, qua which they may be liable for civil as well as criminal consequences in accordance with law, but whether they are entitled to protection of their fundamental right under Article 21 of the Constitution. Must their right to live be upheld, irrespective of their self-proclaimed live in relationship, which on the face of it appears to be adulterous? Pertinently, the couple herein fears for their safety not from society or State, but from the family members of petitioner no. 1. The answer to the aforesaid questions simply is, “““““Be you ever so high, the law is above you 1”. In a nation governed by the Rule of Law, as a citizen you must not and cannot take the law unto your own hands.

9. Adjudication thus warranted now is, whether an appropriate direction or order ought to be passed to allay the apprehensions of the petitioners to save their lives. Must they pay with their lives for defying the matrimonial or other relevant penal laws ? For, most certainly, death is not the penalty for such a defiance, that too at the hands of the family members ! Constitutional Fundamental Right under Article 21 of Constitution of India

stands on a much higher pedestal. Being sacrosanct under the Constitutional Scheme it must be protected, regardless of the legitimacy of relationship and/or even the absence of any marriage between the parties. There may be situations when two consenting adults, already married, but are living together without taking divorce; or not earlier married though adults but not of marriageable age; or being of marriageable age though not married but living together in courtship before they decide to get married or simply want to be live in partners without marriage or any other likewise situation. Appropriate laws exist for dealing with cases arising out of such defiance of the matrimonial or other relevant penal laws, as the case may be, and the law shall take its own course, which inter alia includes criminal prosecution, if there is any offence made out.

10. It is the bounden duty of the State, as per the Constitutional obligations casted upon it, to protect the life and liberty of every citizen. Right to human life is to be treated on highest pedestal and cannot be taken away except in accordance with law. Irrespective of the nature of their relationship, the police force being the protective arm of the State is under a duty to protect the citizens’ life. Accordingly, petitioners herein cannot also be deprived of their said fundamental right.”

10. As an upshot, without commenting upon the legality of the relationship between the petitioners or expressing any opinion on the merits of their apprehensions, petition is disposed of with a direction to the Senior Superintendent of Police, Fazilka to verify/get verified, as he may like, the contents of the petition, particularly the threat perception of the petitioners, and thereafter, proceed in accordance with law and, if deemed fit, provide necessary protection qua their life and liberty.

20.10.2023
D.Bansal

(ARUN MONGA)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No