

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-W-1775-2023 in/and
CRWP-10944-2023
Date of Decision:12.12.2023

Samim Khan and another

. . . . Petitioners

Vs.

State of Haryana and others

. . . . Respondents

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Ms.Kusum Raj, Advocate, for the applicants/petitioners.
Mr.Sumit Jain, Addl. A.G., Haryana.
Mr.Sarfraj Anjum Mor, Advocate,
for father and mother of petitioner No.2.

DEEPAK GUPTA, J.

In CRWP-10944-2023, following order was passed by this Court
on 09.11.2023:-

“By way of present criminal writ petition filed under Article 226 of the Constitution of India, two petitioners who have performed marriage against the wishes of their relatives- private respondents, have sought protection through official respondents No.1 to 3.

Notice of motion to official respondents only.

Mr. Randhir Singh, Addl. AG, Haryana, accepts notice on behalf of respondents No.1 to 3. Copy of petition be supplied to him during course of the day.

Mr. Sarfaraj Anjum Mor, Advocate has appeared for father and mother of petitioner No.2- Sabana though they are not party to this petition and filed his Vakalatnama. Learned counsel for the said parents of petitioner No.2 has drawn attention of this Court towards Nikahnama (Annexure P.3) relied upon by the petitioners as per which place of nikah is Kistwar, Jammu and Kashmir. However, in para No.4 of the petition, it is pleaded by the petitioners that they have performed marriage at Tauru District Mewat.

Learned counsel appearing for the parents of petitioner No.2 further pointed out that Sahun is shown to be the witness of nikah as per (Annexure P.3) but he has

been impleaded as respondent No.5 without disclosing as to what is his relationship with the petitioners.

Adjourned to 30.11.2023.

Petitioners shall clarify the position regarding the place of marriage. They shall also clarify as to what is the relationship of respondents No.4 and 5 with the petitioners.

However, as the petitioners are apprehending threat to their life and liberty despite having married against the wishes of their family members, therefore, respondent No.2 – Superintendent of Police, Mewat Haryana shall take necessary steps to provide necessary protection to the petitioners till the next date of hearing, after assessing threat perceptions to their life.”

2. Report has since been filed on behalf of the respondent-State, as per which, after conducting inquiry, it was found that apprehension of danger to their life and liberty of the petitioners from private respondents No.4 & 5 is imaginary and misconceived. Both the petitioners have also joined in the inquiry proceedings. It is also stated that as of now, the petitioners are residing in a safe house as per the order of this Court.

3. By way of CRM-W-1775-2023, both the petitioners have prayed for their release from the safe house (protection home), District Nuh (Mewat) stating that they want to go back to their home. They moved a representation dated 04.12.2023 to the Superintendent of Police, Nuh (Mewat), but he declined the representation saying that the petitioners cannot be released without an order of this Court.

4. On the oral request made by ld. counsel for the applicants/petitioners, main petition i.e. CRWP-10944-2023 is preponed and the same is taken on board today itself.

5. Regarding discrepancies in the marriage certificate, which were pointed out by ld. counsel for the parents of petitioner No.2 on 09.11.2023, it

is clarified by the petitioners in this application that in fact respondent No.5-Sahun son of Ratti is the uncle of petitioner No.1, whereas Sahun son of Idrish, shown to be witness of Nikah, is the cousin brother of petitioner No.1. It is further clarified by the petitioners that in fact they had performed marriage on 06.11.2023 at Tehsil Tauru, District Mewat, but due to a typographical mistake in the translated copy of Annexure P3, Kistwar Jammu Kashmir was mentioned.

6. Counsel for respondent No.2 has raised objection to allow the application stating that marriage of the petitioners cannot be considered valid. He has tried to point out certain more discrepancies in the marriage certificate.

7. This Court is not going into the aspect of validity of the marriage. Both the petitioners claimed to have performed marriage. Both of them are major. For the sake of arguments, even if it be assumed that marriage performed by them is not valid, still both of them being major, have a right to live in a live-in relationship as per their wish and so they deserve to be granted necessary protection to their life and liberty under Article 21 of the Constitution of India. As such, request of the counsel for respondent No.2, for not allowing the application, is declined.

8. Since petitioners now wish to go back to their home, their application is allowed. Superintendent of Police, Nuh (Mewat) is directed to order the release of the petitioners immediately from the safe house/protection home.

9. Consequently, main petition i.e. CRWP-10944-2023 is also disposed of with the direction to Superintendent of Police, Nuh (Mewat) to

provide necessary protection to the petitioners after assessing threat perceptions to their life and liberty.

12.12.2023

Vivek

(DEEPAK GUPTA)

JUDGE

1. Whether speaking/reasoned?

2. Whether reportable?

Yes

No