



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

I.
TASLIM KHAN AND ANOTHER

CRWP-2737-2024

. . . . Petitioners

Vs.

STATE OF HARYANA AND OTHERS

. . . . Respondents

II.
SAHISTA

CRM-M-17701-2024

. . . . Petitioner

Vs.

STATE OF HARYANA AND OTHERS

. . . . Respondents

Reserved on: 14.05.2024
Pronounced on: 17.05.2024

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. HPS Rahi, Advocate, and
Mr. Khalid Tauru, Advocate, for the petitioners.

Mr. Sumit Jain, Addl. AG, Haryana.

Mr. Gurjant Singh, Advocate, and
Mr. Akram Hussain, Advocate, for respondent No.4.

DEEPAK GUPTA, J.

CRWP-2737-2024 was filed by petitioners Taslim Khan and Sahista, under Article 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus, for directing the official respondents to protect their life and liberty, from the hands of private respondents, as both the petitioners were residing in live-in relationship. Both the petitioners claimed to be major.

2. Petitioner No.2-Sahista had relied upon copy of Haryana Pariwar Pehchaan Patra (Annexure P2) and Aadhar Card, in which her date of birth is

mentioned as 26.01.2006 and on that basis, she claimed to be major. However, as soon as the notice of motion was issued, respondent No.4, father of petitioner No.2-Sahista put in appearance and claimed that Sahista was still a minor. He placed on record copy of her birth certificate issued by the Health Department, Government of Haryana, revealing her date of birth to be 26.05.2007.

3. In view of the above said facts and circumstances, following order was passed by this Court on 22.03.2024: -

“Petitioners claim to be major and that they are residing in live-in relationship. They feel threatened from private respondents No.4 to 8 and so have filed this petition for issuance of the writ in the nature of Mandamus to direct the official respondents to protect the life and liberty.

Notice of motion.

Mr. Parveen Kumar Aggarwal, DAG, Haryana, accepts notice on behalf of the respondent- State. Mr. Akram Hussain, Advocate accepts notice on behalf of respondent No.4 and filed his Vakalatnama.

Learned counsel for respondent No.4 has placed on record copy of the birth certificate issued by the Health Department of the Government of Haryana, which would reveal that the date of birth of petitioner No.2- Sahista is 26.05.2007 and thus, she is still a minor.

Learned State Counsel also seeks time so as to verify the facts.

Adjourned to 05.04.2024.

Since petitioner No.2 prima-facie appears to be a minor as per the birth certificate placed on record by learned counsel for respondent No.4, therefore, respondent No.3 – SHO Police Station Sadar Nuh, District Nuh, is directed to visit the place of petitioners where they are presently residing or whatever place may be disclosed by petitioner No.1 and shift petitioner No.2 to the nearest place of safety. At the same time, threat perception, if any to the life and liberty of petitioner No.1 shall also be assessed and necessary protection be provided to him as per requirement.”

4. As the order dated 22.03.2024 was not complied with by the next date of hearing i.e. 05.04.2024, SHO, Police Station Sadar Nuh was called, who appeared on 09.04.2024 and informed that none of the petitioners were found to be present at the given address, due to which order of this Court could not be complied with. This Court then directed petitioner No.2 to appear in person

before this Court and in case, she felt any threat to her life, then she was asked to approach the SHO, Police Station Sadar Nuh, who was then to produce her before the Court on the date fixed.

5. On the next date of hearing i.e. 16.04.2024, petitioner No.2-Sahista appeared in person. She was sent to place of safety i.e. Aashiana, Sector 15, Chandigarh till further directions.

6. In the meantime, reply dated 06.04.2024 was filed by the respondent –State by way of affidavit of Shri Surender Kumar, HPS, DSP, Nuh, District Nuh stating therein that respondents No.4, 5 & 6 i.e. father, uncle and brother of petitioner No.2 did not have any objection to the relationship of the petitioners. Along with the reply, the statement of respondent No.4-Umar son of Rustam was placed on record as Annexure R3, purported to be signed by him.

7. However, on 22.04.2024, when the matter was put up before this Court, respondent No.4 appeared in person and emphatically denied to have made any such statement as Annexure R3. H.C. Lakhanpal was present in person, who had recorded the statement of Umar, conceded this fact and told that in fact, instead of Umar, his elder brother had put the signature on behalf of Umar. It was, thus, apparent that DSP, Nuh, who had filed the reply, had tried to mislead the Court. The IO of the case along with the DSP, Nuh were directed to appear before this Court to explain, as to why the contempt proceedings be not initiated against them.

8. It would not be out of place to mention that in the meantime, petitioner No.2-Sahista filed separate petition bearing CRM-M-17701-2024 for transferring the investigation of the case FIR No.48 dated 21.03.2024,

registered at Police Station Pinangwa, District Nuh under Section 363 IPC to some senior Police Officer. After giving background of her relationship with Tarsem and the fact that she along with Taslim Khan had sought protection before this Court, she submitted that as her family members were pressurizing her to marry against her wishes, so she had run away with Taslim Khan and started residing in live-in relationship with him and had sought protection from this Court, but she came to know that an FIR No.48 dated 21.03.2024 had been registered against Taslim Khan under Section 363 IPC. She claimed that in fact, she herself had requested Taslim Khan to take her away. She prayed for transferring investigation, as the police was acting at the behest of respondent No.4 i.e. her father.

9. CRM-W-482-2024 was also filed in CRWP-2737-2024 to place on record *Nikahnama* (Annexure P8), by claiming that two petitioners i.e. Taslim Khan and Sahista had performed *Nikah* (marriage) on 06.04.2024.

10. As per the reply dated 05.05.2024, filed by way of affidavit of Shri Surender Kumar, HPS, DSP Nuh, District Nuh, departmental proceedings have already been initiated against SI Ajmer Singh for misleading the deponent, who had gone to record the statement of Umar. As per this reply, fresh statement of Umar was recorded, in which he disclosed that on the earlier statement made by him, his brother had put his signature on his asking.

11. Apparently in the latest reply, Shri Surender Kumar, DSP, has tried to shift the entire blame on SI Ajmer Singh. The earlier statement of Umar (Annexure R3) was purported to be signed by said Umar and it was not at all stated that it had been signed by the brother of Umar. In the aforesaid circumstances, the SP Nuh is directed to initiate departmental action against

DSP Surender Kumar and other officials, who tried to mislead this Court by filing the false statement (Annexure R3) of Umar before this Court.

12. Coming to the main petition i.e. CRWP-2737-2024, birth certificate relied upon by the father of petitioner Sahista would reveal that date of birth of Sahista is 26.05.2007. The said date of birth was got recorded in the birth register on 01.06.2007 and the certificate as produced before this Court was issued on 22.05.2014. Thus, entry regarding birth of Sahista was got registered and the birth certificate was got issued, when there was no dispute relating to the date of her and as such, this Court would place reliance upon the said birth certificate at this stage, in order to form a *prima facie* opinion that petitioner-Sahista is a child within the meaning of Section 2 (12) of Juvenile Justice (Care and Protection of Children Act), 2015, her date of birth being 26.05.2007. In the presence of this birth certificate, no reliance can be placed upon abstract of the school register or a certificate issued by the Head Master of Government Primary School, Ferozepur Meo, so as to certify that her date of birth is 26.01.2006, as it is not clarified as to on what basis and when this entry of date of birth was made. In peculiar facts and circumstances of this case, ***P. Yuvaprakash vs. State, Law Finder Doc Id # 2268796***, relied by Ld. Counsel for the petitioners, is not applicable to this case.

13. Petitioner-Sahista being a child, being less than 18 years of age, clearly appears to be a child in need of care and protection. She has already been sent to a place of safety. As such, she is directed to be kept in the place of safety till she attains the age of majority. Since she feels apprehension to her life and liberty from her parental family, she cannot be allowed to accompany them or petitioner-Taslim Khan. CRWP-2737-2024 is disposed of accordingly.

14. As far as CRM-M-17701-2024 is concerned, it is hereby disposed of with direction to respondent No.2-Superintendent of Police, Mewat that investigation in the FIR No.48 dated 21.03.2024, registered at Police Station Pinangwa, District Nuh under Section 363 IPC shall be conducted under his direct supervision and final report under Section 173 CrPC shall also be filed only after the said report is gone through by him.

A photocopy of this order be placed on the file of other connected case.

17.05.2024
Vivek

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes
No