

2024.PHHC.069943



111 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP-3957-2024
DECIDED ON:17.05.2024

POONAM KUMARI AND OTHERS

.....PETITIONERS

VERSUS

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Shubham Mehta, Advocate, for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Articles 226/227 of the Constitution of India has been invoked seeking issuance of a writ in the nature of *Mandamus* directing the respondents No.2 and 3, to protect the lives and liberty of the petitioners at the hands of private respondents with further direction not to allow respondents No.4 to 8 or anyone else to interfere in their personal lives.

2. It is worth noticing here that respondent No.4 -Chhote Lal is father whereas respondent No.5-Akilesh Kumari is her mother, two sisters of the petitioner No.3 along-with one brother-in-law have also been arrayed as respondents No.4 to 8, from whom the petitioners are alleging danger to their life.

3. The gist of the facts would unfold as petitioners No.1 and 2 are major whereas petitioner No.3 is minor girl having born on 08.09.2007 as could be made out from perusal of the Aadhar Card attached at page No.18 of the petition.

4. It has been contended on behalf of the petitioners that the respondents No.4 and 5, who are parents of petitioner No.3 (minor girl), are forcing her to perform marriage with a boy of odd age without giving any weight to her choice and wishes. It is on account of her refusal to marry as per respondents wishes, she finally ran away from her parental house and sought help from petitioner No.1-Poonam Kumari. It has been pleaded before this Court that initially petitioner No.1-Poonam Kumar was reluctant to bring petitioner No.3 to her house but on consistent and repeated requests of petitioner No.3, she agreed to give her shelter with an endeavour to marry her with petitioner No.2 as and when she attains the age of majority. Specific assertion has been made before this Court that subsequently, respondents No.4 along-with other 6-7 persons entered her house and threatened her with dire consequences. It is in such a circumstance facing eminent danger to life and liberty of petitioners, a representation was made to Commissioner of Police, Amritsar and Station House Officer, B-Division Amritsar, respondents No.2 & 3 respectively on 25.04.2024, a copy of which is available on record as Annexure P-1 but till date no action has been taken on the said representation, the present petition has been registered before this Court raising the question that whether official respondents are duty bound to protect the life and liberty of the petitioners and whether petitioners can be deprived of their fundamental rights as envisaged under Article 21 of the Constitution of India.

5. Heard learned counsel for the petitioners being conscious of the fact and concerned about the safety of petitioner No.3, who is just 16 years of age, she was sent to Aashiana, Sector 15, Chandigarh (a Government recognized institution) vide order dated 06.05.2024 and a direction was issued also to the effect that respondents No.4 & 5 be present in Court in person on the next date of hearing.

6. The welfare of a minor girl is of paramount consideration before this Court, who has approached this Court to seek protection under Article 226 of the Constitution of India.

7. In compliance of the order dated 06.05.2024, petitioner No.3 as well as respondents No.4 & 5 came present in Court today i.e. 17.05.2024 and the age of petitioner No.3 undisputedly was determined to be 16 years. On a query put by this Court, respondents No.4 & 5 (father and mother of petitioner No.3) denied allegation of putting pressure of marriage to their daughter rather pleaded having utmost love and affection for her and showed their desire to continue her academic career.

8. Today, petitioner No.3 along with her counsel as well as respondents No.4 and 5 appeared in person in Court. Petitioner No.3 happily consented to join her parents and went up to her father to pay regards and rather regretted for her wrongs. Petitioner No.3 categorically asserted that she does not want to stay in the company of petitioners No.1 and 2 anymore and requested that she be permitted to go along with her parents from the Court itself.

9. This Court has also interacted with the minor girl-petitioner No.3 namely Sushma in open Court and after doing a bit of counseling thereafter petitioner No.3 also denied the fact that she has ever been threatened or pressurize by her parents as well as respondents No.6 to 8, who are sisters and brother-in-law. Statement of petitioner No.3 has also been recorded, which is placed on record as Mark 'A', wherein, she has categorically stated that she wants to join the company of her parents.

10. It is under these circumstances and in the turn of events taken place during the course of proceeding before this Court, looking at the wishes and desire

of petitioner No.3 namely Sushma, aged 16 years, this Court also questioned respondents No.4 & 5, who assure the Court that they would never force her to marrying with any boy of their choice. The petitioner No.3 also went to the extent of stating that the instant petition was preferred by her without knowing the contents of the same, this Court has no reason to disbelieve the stand taken by minor girl in the open Court and also in the presence of her counsel and her parents and therefore, allowed her to go along with her parents.

11. Nevertheless it needs to be recorded here that even the respondents No.4 and 5 showed equal amount of readiness and desire to take their daughter along and since their cannot be any better guardian than the parents of a child, this Court allowed the petitioner No.3 to accompany her parents from the Court itself.

12. In the aforesaid terms, nothing survives in the present petition wherein petitioner No.3 denied the fact of any threat at the hands of respondents No.4 to 8 has rejoined the company of her parents, no direction is required as the essence of threat to life and liberty under Article 21 of the Constitution of India is not existing at all, the same is disposed off with no order as to costs.

17.05.2024
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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>