



IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 106

Criminal Writ Petition No.5404 of 2024

Date of Decision: June 07, 2024

Neeta Rani & another

..... PETITIONER(S)

VERSUS

State of Punjab & others

..... RESPONDENT(S)

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

PRESENT: - Mr. Chandan Singh Rana, Advocate, for the petitioners.

Tribhuvan Dahiya, J (Oral)

The petitioner Nos.1 and 2, who are seventeen and twenty-seven years of age, respectively, as per their Aadhar Cards, have approached this Court seeking a direction to the official respondents to protect their life and liberty on the averments that they are in live-in relationship against the wishes of respondent Nos.4 to 8, who are family members of petitioner No.1, and are apprehending threat to their life and liberty at their instance.

2. Learned counsel for the petitioners contends that a representation, dated 30.05.2024, Annexure P-3, has been made to the Senior Superintendent of Police, Ludhiana (Rural), seeking necessary protection, but no action has been taken in the matter so far. He would be satisfied if appropriate direction is issued to take action on the representation.

3. Notice of motion.

4. Mr. Prabhdeep Singh Dhaliwal, Assistant Advocate General, Punjab, accepts notice on behalf of respondent Nos.1 to 3, and submits that requisite action in the matter will be taken.



5. Since petitioner No.1 is a minor and has approached this Court for protection of her life and liberty by asserting the rights enshrined under Article 21 of the Constitution, it becomes essential for this Court to take care of the minor's interests, and direct respondent No.2/Senior Superintendent of Police, Ludhiana (Rural), as well as the Child Welfare Committee to take steps as per directions issued by this Court in *Khushpreet Singh and another v. State of Punjab and others*, 2022(3) R.C.R. (Civil) 988, which is as under:

19. The enunciation of statutory framework in the nature of Juvenile Justice (Care and Protection of Children) Act 2015 and Protection of Children from Sexual Offences Act does not run contrary to the provisions enshrined under Article 21 of the Constitution of India. Protection of life and liberty guaranteed to a citizen necessarily ensures that the Court of law, when approached, would step into the shoes as a guardian of such minor and take all such steps as are essential to protect the life and liberty of such a minor. It would be incomprehensible to contend or to suggest that the protective scheme and procedure formulated under the Juvenile Justice (Care and Protection of Children) Act 2015 is not in furtherance of protection enshrined under Article 21 of the Constitution of India. The said Acts are intended to ensure advancement of Article 21. The Court of law, while issuing any directions to follow the procedure provided for under the Juvenile Justice (Care and Protection of Children) Act 2015, does so with an object to ensure safety and protection of a minor, who the law does not recognise as having acquired the wisdom and knowledge to take best decisions for himself/herself. The decision so taken by the competent authority with respect to the minor as per the procedure prescribed in law, cannot be deemed as violative of Article 21



of the Constitution of India with on a ground that such a decision will not be in conformity with the interest which such a minor conceives to be in his/her best interest. The Court cannot be oblivious to the duty cast upon it as a repository of the best interest of the minor and there can be no presumption that once a minor conveys his/her desire to stay with any person and that such person claims to be the next friend/de facto guardian, the same would actually and in reality be in furtherance of the best interest of the minor. Determination of what would be in the best interest of the minor has to be done by the Court as per the procedure known to law.

20. The Court, thus, has to take upon itself the responsibility to ensure that the fundamental right of such a minor to claim protection of his/her life and liberty is made available and also to ensure that in the said process, the protection of the statute is not violated.

21. Considering the above said circumstances and the fact that the aforesaid minor has approached the Court, it becomes incumbent upon the Court in its capacity as *parens patriae* to examine what is in the best interest of the minor and it is desirable to direct as under

1. The minor in this case happen to fall within the definition of child in need of care and protection as provided under section 2(14)(vii)(xii) of Juvenile Justice (Care and Protection of Children) Act, 2015. The Senior Superintendent of Police/Superintendent of Police/Commissioner of Police of the respective district shall depute a Child Welfare Police Officer to produce the minor/child before the Committee constituted under the Juvenile Justice (Care and Protection of Children) Act 2015.



II. The respective Committee shall conduct an enquiry contemplated under Section 36 of the Juvenile Justice (Care and Protection of Children) Act 2015 and pass an appropriate order under section 37 of the said Act, by associating all the stakeholder, and to ensure that the objects of the Juvenile Justice (Care and Protection of Children) Act 2015 are well served.

III. The Child Welfare Committee shall take appropriate decision with respect to the boarding and lodging of the minor and also to conduct enquiry on all issues relating to and affecting safety and well-being of the child/minor.

IV. During the pendency of such adjudication and passing of orders as contemplated under Section 37 of the Juvenile Justice (Care and Protection of Children) Act 2015, the committee shall also take appropriate interim/decisions as regards placement of a child/custody of the child in need of care and protection.

V. The concerned SSPs/SPs/CPs shall also take appropriate steps as warranted by law against the threat perception to the minor as well as to her next friend, through whom the minor has approached this Court and to ensure that the respective petitioners are protected from any physical harm at the instance of the respondents mentioned in the petition.

VI. The petitioners are directed to appear in the office of SSP/SP of the respective Districts within a period of 03 days from receipt of this copy, failing which the concerned SSP/SP shall depute a Child Welfare Police Officer to produce the minor before the Child Welfare



Committee within a period of 01 week thereafter.

VII. The Child Welfare Committee constituted under the Juvenile Justice (Care and Protection of Children) Act 2015, shall send a compliance report to this Court.

6. In view thereof, the petition is disposed of directing respondent No.2-Senior Superintendent of Police, Ludhiana (Rural), to look into the representation, dated 30.05.2024, regarding the alleged threats to life and liberty of the petitioners at the hands of private respondents, and take appropriate action to extend the necessary protection, as may be required, in accordance with law in terms of the directions issued in *Khushpreet Singh* case (supra).

7. This order shall not validate the relationship between the petitioners, nor will it have any effect on any civil or criminal action needed to be initiated in the matter.

(Tribhuvan Dahiya)
Judge

June 07, 2024
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No