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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRWP No.6758-2024

Date of Decision: 17.07.2024

Shahid and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Kusum Raj, Advocate
for the petitioners.

Mr. Vikrant Pamboo, Sr. DAG, Haryana.

ANOOP CHITKARA, J.

CRM-W-894-2024

Allowed, as prayed for.

Main case

Apprehending threat to their lives and liberty at the hands of the private respondents, the petitioners who claim to have married each other, despite the male being previously married, against the wishes of the private respondents, and such marriage in subsistence, have come up before this Court seeking protection through the State, by invoking their fundamental rights of life guaranteed under Article 21 of the Constitution of India, seeking direction to the State to protect them.

2. Notices served upon the official respondents through the State's counsel. Given the nature of the order that this Court proposes to pass, neither the response of official respondents nor the issuance of notices to the private respondents is required.

3. Petitioner No.1 is earlier married and such marriage is in subsistence but they follow Islam.

4. In Mohd Arif @ Ashfaq v. Registrar, Supreme Court of India, **2022:INSC:1154 [Para 17]** (2014) 9 SCC 737, the Constitutional bench of Hon'ble Supreme Court holds,

[17]. As the determination of this case has to do with the fundamental right to life, which, among all fundamental rights, is the most precious to all human beings, we need to delve into Article 21 which reads as follows:

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"21. Protection of life and personal liberty.-No person shall be deprived of his life or personal liberty except according to procedure established by law."

[18]. This Article has its origin in nothing less than the Magna Carta, (the 39th Article) of 1215 vintage which King John of England was forced to sign by his Barons. It is a little known fact that this original charter of liberty was faulted at the very start and did not get off the ground because of a Papal Bull issued by Pope Innocent the third declaring this charter to be void. Strangely, like Magna Carta, Art. 21 did not get off the ground for 28 years after which, unshackled, it has become the single most important fundamental right under the Constitution of India, being described as one of a holy trinity consisting of a 'golden triangle' (see *Minerva Mills v. Union of India*, 1981 1 SCR 206 at 263), and being one of two articles which cannot be eclipsed during an emergency (Article 359 as amended by the Constitution 44th Amendment).

5. If the allegations of apprehension of threat to their lives turn out to be true, it might lead to an irreversible loss. Thus, in the facts and circumstances peculiar to this case, it shall be appropriate that the concerned Superintendent of Police, SHO, or any officer to whom such powers have been delegated or have been authorized in this regard, provide appropriate protection to the petitioners for one week from today. However, if the petitioners no longer require the protection, then at their request it may be discontinued even before the expiry of one week. After that, the concerned officers shall extend the protection on day-to-day analysis of the ground realities or upon the oral or written request of the petitioners.

6. The protection is subject to the stringent condition that from the time such protection is given, the petitioners shall refrain from attending parties, bars, picnics or any area that may pose a risk to their life. The SHO should send police officer(s) to petitioners' home to assess the required level of security. Once the assessment is done, the officer should provide adequate security without the petitioners having to contact them.

7. It is clarified that if the petitioners visit any disputed place and the security officer becomes aware of it, they should advise the petitioners to avoid going there. If the petitioners still insist on going, the officer has the right to return to the police station due to petitioners' defiance of the order.

8. It is clarified that there is no adjudication on merits and that this order is not a blanket bail in any FIR. It is further clarified that this order shall not come in the way if the interrogation of the petitioners is required in any cognizable case. It shall also be

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open for the petitioner(s) to approach this Court again in case of any fresh threat perception.

9. It is clarified that this Court is not commenting on the validating marriage of petitioners but taking only the question of threat into consideration.

10. **This order shall eclipse after fifteen days from today.**

11. *There would be no need for a certified copy of this order, and any Advocate for the Petitioners and State can download this order and other relevant particulars from the official web page of this court and attest it to be a true copy. The concerned officer can also verify its authenticity and may download and use the downloaded copy for immediate use.*

Petition is allowed to the extent mentioned above. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

17.07.2024
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Whether speaking/reasoned: Yes
Whether reportable: **No.**