



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

CRWP-7392-2024
Date of Decision: 02.08.2024

ANGURI AND ANR
.....PETITIONERS
VERSUS
THE STATE OF PUNJAB AND OTHERS
.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Dolli Sharma, Advocate
for the Petitioner
Mr. Rajiv Verma, DAG, Punjab

SANDEEP MOUDGIL, J

1. The jurisdiction of this court has been invoked under Article 226/227 of the Constitution of India for issuance of necessary direction to official respondents No.1 to 3 to protect their life and liberty which is allegedly endangered at the hands of private respondents No.4 to 8, as the petitioners want to marry each other but are facing out hard opposition from their family member, who are private respondents No.4 to 8 herein.
2. It is contended by learned counsel for the petitioners that the petitioners like each other and are presently living together in live-in relationship from the last few months. It is further contended that as the private respondents No.4 to 8 are opposing their relationship as such respondent No.2 has made a representation to the Deputy Commissioner of

Police, Fazilka, on 25.07.2024 (Annexure P-3), which was sent through mail delivery (Annexure P-4). Thereafter, SHO Police Station Arniwala, Fazilka, was also moved by respondent No.2 vide representation dated 29.07.2024 (Annexure P-5) by post, copy of receipt is at Annexure P-6. Therefore, their life and liberty, which is in danger, may be protected from the hands of private respondents No.4 to 8.

3. Per contra, state counsel who is present in the court on advance notice contends that petitioner No.1 has taken divorce from respondent No.4 till date, therefore, in such an averment, it is clear that petitioner No.1 is till date legally wedded wife of respondent No.4 and no husband will tolerate that any person would have relations with his wife. As such, the petitioner No.2 does not deserve any protection, as prayed, from this Court. Accordingly, petitioner No.1 who is the legally wedded wife of respondent No.4 also does not deserve any protection from this Court, as prayed.

4. Heard learned counsel for the respective parties and gone through the record.

5. Petitioner No.1 is married to respondent No.4 and their marriage took place in the year 2010 and has four children from that wedlock who are minor being aged 11, 9, 8 and 6 years. Out of them, two (aged 9 and 6 years) are living with the petitioners and one (aged 8 years) is living with paternal grandmother and one (aged 11 years) is living with maternal grandmother. Her husband i.e. respondent No.4 always beats her and children over every small matter and did not provide her necessary daily use items whereas family members of respondent No.4 always used to ill-treat her. Petitioner No.2, when was minor, was previously married in the year 2008 with one Sunita and from that wed-lock has two children, aged 7 years and 3 years. Petitioner

No.2 got divorce from Sunita in the year 2021 and out of two children, the child aged 3 years is living with petitioner No.2.

6. To utter dismay of this Court, not even a single word what to talk of any averment is there to ascertain if petitioner No.1 has taken divorce from respondent No.4 till date.,therefore, in such an averment, it is clear that petitioner No.1 is till date legally wedded wife of respondent No.4.

7. Needless to mention here that with regard to the status of live-in-relationship with an existing marriage, the Hon'ble Apex Court in the case of ***Indra Sarma Vs. V.K.V. Sarma, (2013) 15 SCC 755***, has held that all live-in-relationships could not be considered synonyms to the relationships in the "nature of marriage." A live-in-relationship between a married man and a woman or a married woman with a man is not akin to marriage, as it amounts to adultery and bigamy, which is unlawful. Therefore, such women are not entitled to any protection under the DV Act. Furthermore, certain guidelines were framed by the Apex Court in the aforesaid judgment to consider the live-in-relationships in the nature of marriage wherein the following observations were made:-

"We may, on the basis of above discussion cull out some guidelines for testing under what circumstances, a live-in relationship will fall within the expression "relationship in the nature of marriage" under Section 2(f) of the DV Act. The guidelines, of course, are not exhaustive, but will definitely give some insight to such relationships.

56.1 Duration of period of relationship- Section 2(f) of the DV Act has used the expression "at any point of time", which means a reasonable period of time to maintain and continue a relationship which may vary from case to case, depending upon the fact situation.

56.2 Shared household- The expression has been defined under Section 2(s) of the DV Act and, hence, need no further elaboration.

56.3 Pooling of Resources and Financial Arrangements Supporting each other, or anyone of them, financially, sharing bank accounts, acquiring immovable properties in joint names or in the name of the woman, long term investments in business, shares in separate and joint names, so as to have a long standing relationship, may be a guiding factor.

56.4 Domestic Arrangements-Entrusting the responsibility, especially on the woman to run the home, do the household activities like cleaning, cooking, maintaining or upkeeping the house, etc. is an indication of a relationship in the nature of marriage.

56.5 Sexual Relationship- Marriage like relationship refers to sexual relationship, not just for pleasure, but for emotional and intimate relationship, for procreation of children, so as to give emotional support, companionship and also material affection, caring etc.

56.6 Children- Having children is a strong indication of a relationship in the nature of marriage. Parties, therefore, intend to have a long standing relationship. Sharing the responsibility for bringing up and supporting them is also a strong indication.

56.7 Socialization in Public- Holding out to the public and socializing with friends, relations and others, as if they are husband and wife is a strong circumstance to hold the relationship is in the nature of marriage.

56.8 Intention and conduct of the parties. Common intention of parties as to what their relationship is to be and to involve, and as to their respective roles and responsibilities, primarily determines the nature of that relationship."

8. Therefore, this court is of the view that the petitioners being fully aware of the fact that the both of them being married earlier could not have

entered into a live-in relationship. Further the petitioner no.1 has not taken divorce from his earlier husband. All live-in-relationships are not relationships in the nature of marriage. If this Court holds that the relationship between the petitioner no.1 and petitioner no. 2 is a relationship in the nature of a marriage, we will be doing an injustice to the husband and children who opposed that relationship.

9. Under Article 21 of the Indian Constitution each and every individual has a right to live with peace, dignity and honour, therefore, by allowing such type of petitions, we are encouraging the wrongdoers and somewhere promoting the practice of bigamy, which is otherwise an offence under Section 494 IPC, further violating the right of the other spouse and children under Article 21 to live with dignity. The concept of right to life and personal liberty guaranteed under Article 21 of the Constitution of India includes the right to live with dignity and the petitioners by running away from their parental home is not only bringing bad name to the family but also is violating the right of the parents to live with dignity and honour.

10. Another observation was made by a Single-Judge Bench of this Court in ***Kavita and another vs State of Haryana and others in CRM-M-31987-2015***, wherein both the petitioners were married to the respective respondents and without seeking divorce from their respective spouses they were living in a lustful and adulterous life with each other and relied upon a vague document i.e., representation wherein it was nowhere stated that from whom they were apprehending threat to their life and liberty. While dismissing the petition, the Court remarked that it cannot be presumed that both the petitioners have any apprehension from their spouses and this petition has

been filed just to obtain a seal of this Court on their so-called live-in relationship. In view of this, dismissing their plea, the Court noted thus:

"It is worth noticing here that in the absence of any allegation by not naming anyone in the representation, it cannot be presumed that both the petitioners have any apprehension from their own spouses and this petition has been filed just to obtain a seal of this Court on their so-called live-in relationship."

11. The case in hand is also of similar kind/nature that the petitioner No.1 by approaching this Court has attempted to obtain a seal of this Court on her so-called live-in-relationship with petitioner No.2, to defeat the matrimonial rights of her husband/spouse – respondent No.4.

12. In the light of above observations of Hon’ble Apex Court and other Benches of different High Courts, this Court does not find it to be a fit case wherein prayer of the petitioners may be allowed and their life and liberty may be protected.

13. Hence, the present petition stands dismissed.

02.08.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No