

2024:PHHC:119780



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

CRWP-8551-2024
DECIDED ON: 10.09.2024

JATIN KUMAR AND ANOTHER

.....PETITIONERS

VERSUS

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Raman Kumar, Advocate
for the petitioners.

Mr. Jaspal Singh Guru, AAG, Punjab.

Ms. Vasundhara Dalal, APP for UT Chandigarh.

SANDEEP MOUDGIL, J

1. The jurisdiction of this Court has been invoked under Articles 226/227 of the Constitution of India whereby, a prayer has been made to direct respondents No.2 and 3 Commissioner of Police, Ludhiana and Station House Officer, Police Station Tibba, District Ludhiana, not to harass the petitioners namely Jatin Kumar aged 20 years and Laxmi Gupta, aged 17 years 11 months, who has approached through petitioner No.1 being major and also to protect their lives and liberty.

2. The factual matrix as can be culled out after hearing the parties and going through the pleadings that family members of both the petitioners are known to each other and for the last 2 years, developed liking and also disclosed

their intention to marry. It is further asserted that the family members of petitioner No.1-Jatin Kumar has, however, accepted the relationship but parents of petitioner No.2-Laxmi Gupta are allegedly against the said relationship. The petitioners have also levelled allegations qua parents of petitioner No.2, who are arrayed in the memo of parties as respondents No.4 to 6 namely Mahesh Chander (father of petitioner No.2), Seema (mother of petitioner No.2) and Surinder (maternal uncle of petitioner No.2) alleging that they are forcing her to marry with a person of old age of their own choice despite the fact that she is not of marriageable age. It is further averred on behalf of petitioners that on account adamant behavior of respondents No.4 to 6 and other family members of petitioner No.2, they have started living together in live-in-relationship though against the wishes of respondents No.4 to 6.

3. Apprehending serious threat of elimination of petitioners on account of false prestige and honour of the family, a representation is stated to have been submitted before respondent No.2-Commissioner of Police, Ludhiana through registered post on 30.08.2024, which is annexed with the present petition as Annexure P-3. The petitioners have now approached this Court asserting that respondent No.2 has not taken any action on the said representation, till date.

4. The matter came up for hearing before this Court on 04.09.2024, considering the age of both the petitioners, who found to be not of marriageable age particularly petitioner No.2, who is minor being less than 18 years of age, respondent-State was called up to file a status report after verifying the veracity of the allegations and the concern raised in the instant petition. The affidavit was also qua for explaining the reason of raiding the house of petitioner No.1.

5. The case was adjourned for the next day i.e. 05.09.2024 and on that day Ms. Roopdeep Kaur, Assistant Commissioner of Police, Ludhiana filed her reply dated 05.09.2024 disclosing certain facts despite assertions made in the present criminal writ petition i.e. to say that petitioners have not approached this Court with clean hands, who are guilty of concealing material facts while seeking dismissal of present petition.

6. It is also stated in the said affidavit that respondent No.4-father of petitioner No.2 has lodged a FIR bearing No.0137, dated 02.09.2024, under Sections 137(2) and 96 of Bhartiya Nyaya Sanhita (BNS), 2023, at Police Station Tibba, Police Commissionerate, Ludhiana against petitioner No.1 for enticing his daughter. Para No.3 of the reply is relevant, which reads as under:-

“3. That it is respectfully submitted that on 02.09.2024, one Mahesh Chander son of Ram Kishen, father of petitioner No.2 got recorded his statement that on 25.08.2024, his minor daughter aged about 17 years and 11 months went to her friends house but did not return back. He further raised suspicion that she had enticed away by petitioner No.1. Therefore, an FIR No.0137, dated 02.09.2024, under Sections 137(2) and 96 of Bhartiya Nyaya Sanhita (BNS), 2023, has been registered at Police Station Tibba, Police Commissionerate, Ludhiana against petitioner No.1. Thereafter numerous raids have been conducted by ASI Sham Singh at the residence of accused and efforts are being made to arrest him and trace the minor girl who is in illegal custody of petitioner No.1.”

7. Assistant Commissioner of Police, Ludhiana has further disclosed in her reply that since petitioner No.2 is minor, petitioner No.1 is thus accused of kidnapping, petitioner No.2. The reply filed by the ACP raises serious concern about the well-being of petitioner No.2 particular, who is minor girl and as such legally she is not competent to decide her well-being. Hence, respondent-State

was asked to produce both the petitioners in Court on 06.09.2024. On the adjourned date, both the petitioner were present in Court and petitioner No.2 admitted her age to be less than 18 years, as is evident from Aadhar Card as well, according to which her date of birth is 02.10.2006 and even the petitioner No.1 is also found to be not of marriageable age being less than 21 years with his date of birth as 25.08.2004. It was incumbent upon this Court to adjudicate on the question involved in the present criminal writ petition, keeping in mind the paramount consideration of welfare of petitioner No.2, minor girl in particular.

8. Mr. Jaspal Singh Guru, Assistant Advocate General, Punjab was directed to ensure the presence of respondents No.4 and 5 (father and mother of petitioner No.2, respectively) on the adjourned date apart from petitioner No.2, minor girl. Though, petitioner No.2 have shown unwillingness to go back to her parental home citing fear of annoyance of her parents. In these circumstances, it was deemed appropriate by this Court to send petitioner No.2-minor girl to a safe home and accordingly, she was sent to a protection home i.e. Ashiana, Sector 15, Chandigarh with SI Ajmer Singh 1273 and L/c Reena rani 2070/CP, Anti Human Trafficking Unit, Sector 17, Chandigarh, unless her parents and other family members were produced in the Court.

9. Today i.e. 10.09.2024, during the course of hearing, respondents No.4 and 5 (father and mother of petitioner No.2) have come present and petitioner No.2 was also present in Court along-with her counsel. This Court conducted interaction session/made efforts to find out the reasons, as to why the minor girl had left her home, on which the minor girl-petitioner No.2 responded that she was being forced to marry a person of old age despite the fact that she

wanted to continue her studies and marry petitioner No.1 only, after attaining the age of marriage.

10. At the same time, respondents No.4 and 5 has denied all these allegations and respondent No.4-father was expressive in saying that he has never forced his daughter to marry with any person and rather he himself wants her to continue her studies, who is studying in 10+2 in a Government School. He further states that petitioner No.1 has enticed and allured his minor daughter knowingly well that she is minor and who himself is also 20 years of age and can not marry before he attains the age of 21 years in August, 2025. Petitioner No.2 was also inquired about her wishes and decision on which she states that, if her father agrees not to marry her with any other person of old age and allows her to continue studies, she is ready to go back to her parental home, on which respondent No.4 agreed in toto without any ifs and buts and pleaded that he wants her daughter to stand in her life on her own feet.

11. Statements of petitioner No.2 and respondent No.4 have been recorded in Court, which reads as under:-

“STATEMENT OF MAHESH CHANDER AGED 45 YEARS S/O RAM KRISHNA , R/O HOUSE NO. 443, STREET NO.4 STAR CITY COLONY , TIBBA ROAD , P.S BASTI JODHEWAL , DISTT. LUDHIANA

ON S.A.

It is stated that I will take care of my Daughter , Laxmi Gupta aged about 17 years 11 months . I will let her study further and will not get her married forcibly . I am ready and willing to take my daughter who is present in court and will take care of her.

The afore-said statement of mine is without any fear, coercion or undue influence.”

“I am Laxmi Gupta aged about 17 years and 11 months Daughter of Mahesh Chander , Son of Ram Krishan Today I am present in the court I want to continue my study and wish to go with my father

aged about 45 years R/o # 443 , Street no.4 Star city colony , Tibha Road , P.S Basti Jodhewal, Distt. Ludhiana . I am going with my father without any pressure or fear.”

12. It was a happy reunion between a father and minor daughter and both embraced each other in the open court wherein petitioner No.2 tendered her apology to father. On the asking of the Court, she was eager to go back to her parents and was in fact thankful for the proceedings conducted in the Court for the last four dates, which made this Court to understand that good sense has prevailed over a minor girl, who is a student of 10+2 and has courtesy and manner of representing herself before this Court.

13. At this stage, learned counsel for petitioner No.2 has pointed out that her certain valuable articles including gold items, which she was wearing at the time she was taken to Ashiana are lying at that centre, which can be released only after showing order of this Court.

14. This Court has already experienced in various cases particularly in those instances where minors are involved as run away couples and have started living in live-in-relationship rushing to the Court seeking protection to their lives and liberty raising serious allegations of elimination at the hands of his/her parents though without any concrete evidence or any kind of other material but on mediation and interaction conducted at the behest of the Court itself at least in more than 20 cases in the last 7/8 months or so, the minor girls have happily and willingly without any coercion joined the company of their parents back, once they were made to understand the act in which they are involved, which might be not only against moral values and social norms but otherwise also not permitted by law, as established so far giving approval to such relationship under the garb of live-in-relationship.

15. In view of afore-said discussions, the present petition is disposed off, on a happy note with a glitters in the eyes of minor girl and tears of contentedness and satisfaction in the eyes of father who embraced her minor daughter in the open Court. It is hereby, directed that petitioner No.2 be allowed to go with her parents, who are present in Court today itself leaving it open for the investigating/law enforcing agency to take legal recourse, as per prescribed law in FIR No. 0137, dated 02.09.2024, registered at Police Station Tibba, Police Commissionerate, Ludhiana, if so desired by the complainant of that FIR.

16. Disposed off.

10.09.2024
sham

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No