

2024:PHHC:158628



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

Sr. No.110

**CRWP-11542-2024 (O&M)
Date of decision : 29.11.2024**

Kasam Khan and another

..... Petitioners

VERSUS

State of Punjab and others

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Naveen Kumar, Advocate for
Mr. Imran Farooqi, Advocate, for the petitioners.

KIRTI SINGH, J. (Oral)

1. This petition has been filed under Articles 226/227 of the Constitution of India for issuance of a direction to the official respondents No.1 to 3 for the protection of the life and liberty of the petitioners from the private respondent No.4.

2. The date of birth of petitioner No.1 is 24.08.1995 and he is about 29 years of age and for the said purpose, reference has been made to the Aadhar Card (Annexure P1). Petitioner No.2 is stated to be born in the year 1993 and she is about 31 years of age. A true copy of the Aadhar Card of petitioner No.2 is attached herewith as (Annexure P2). Petitioner No.2 is previously married and she had obtained a divorce from her previous husband vide order dated 23.07.2018 (Annexure P5) passed by the learned Court and petitioner No.1 is unmarried. It is stated that the petitioners are major and have performed marriage on 25.11.2024 (Annexure P3).

3. Learned counsel for the petitioners has placed reliance on the judgments passed by this Court in CRWP-4521-2021 titled as **Pardeep Singh and another Vs. State of Haryana and others** decided on

2024:PHHC:158628



18.05.2021 and CRWP-4905-2024 titled as **Yadwinder Singh and another Vs. State of Punjab and others** decided on 24.05.2024. He has also relied upon the order dated 02.11.2021 passed by the Coordinate Bench of this Court in CRWP-10411-2021 titled as **Amandeep Kaur and another Vs. State of Punjab and others** as per which in a case where one of the petitioner was married and was living in with another person, other than the spouse, this Court had granted protection to the petitioners. He has further submitted that the petitioners had submitted/presented a representation dated 25.11.2024 (Annexure P4) to respondent No.2 and would be satisfied in case respondent No.2 is directed to look into the said representation and after considering the threat perception to the petitioners to take appropriate action.

4. Notice of motion to respondents No.1 to 3 only.

5. At the asking of the Court, Mr. Vinay Kumar Malhotra, DAG, Punjab accepts notice on behalf of the respondents No.1 to 3-State and has stated that he has no objection, in case respondent No.2 is directed to look into the representation of the petitioners on the aspect of threat perception and to take appropriate action. Counsel for the petitioners is directed to supply a copy of the complete paper book to the learned State counsel.

6. Heard.

7. With respect to the aspect of the petitioners not being divorced, it is relevant to refer to a judgment of Division Bench of this Court dated 03.09.2021 passed in **LPA-769-2021 titled as Ishrat Bano and another Vs. State of Punjab and others**. Ishrat Bano (petitioner therein) had filed CRWP-7903-2021 which was dismissed by the learned Single Judge of this Court primarily on the ground that the divorce documents presented by the

2024:PHHC:158628



petitioner were one sided documents and thus, it appeared that the divorce was not legal. The matter was taken up in appeal and the Division Bench of this Court vide judgment dated 03.09.2021 passed in **LPA-769-2021** titled as **Ishrat Bano and another Vs. State of Punjab and others** had held as under:-

“The aspect which we are considering and dealing with is with regard to the threat to the life and liberty to the appellants as has been asserted by them. No doubt, in case a criminal case is registered against any of the parties, the law should take its own course, however, the life and liberty of any person who has approached the Court with such a grievance need to be taken care of and the protection be provided as permissible in law. No person can be permitted or allowed to take law in his hands and therefore, keeping in view the said aspect, we dispose of the present appeal by observing that the Senior Superintendent of Police, Maler Kotla, shall take into consideration the representation dated 17.08.2021 (Annexure P-5) submitted by the appellants and if some substance is found therein, take appropriate steps in accordance with law to ensure that the life and liberty is not jeopardized of the appellants at the hands of the private respondents. This direction shall not be construed in any manner to restrain the official respondents to proceed against the appellants in case there is some criminal case registered against them. The law shall take its own course and it shall be open to the

2024:PHHC:158628



authorities/investigating agency to proceed against the appellants, if required in law and in accordance thereto.”

8. Thus, the Division Bench after considering the aspect of the protection of the life and liberty and without getting into the issue as to whether the relationship between the parties are legal or not, even in spite of the fact that there was a criminal case registered against the parties, however, granted them protection.

9. The Division Bench of this in order dated 09.9.2024 passed CRWP No. 4660 of 2021 titled as '***Yash Pal and another Haryana and others***' has held as under:

" 36. For the reasons to be assigned hereinafter the judgments (supra) rendered by the Apex Court, and, the judgments rendered by Full Benches of this Court in LPA No. 1678 of 2014 and in LPA No. 769 of 2021, besides the verdicts (supra) rendered by this Court, whereby adults in a live-in relationship, thus the espoused protection but for warding off threats arising from moral vigilants or from the close relatives of any of them, has been granted, thus are required to be affirmed. On the other hand, the verdicts (supra) whereby the espoused claim for protection to the adults in a live-in relationship, has been denied, thus are respectfully disagreed with.

xxx xxx xxx

38. A reading of the above underlined expressions (supra), as become borne in the verdicts (supra) do manifest the trite proposition of law that the freedom of choice to live with a partner of his or her choice, thus donning the mantle of a constitutionally endowed right vis-a-vis the adults (supra) to live in a live-in relationship, irrespective of the fact that they do not perform any

2024:PHHC:158628



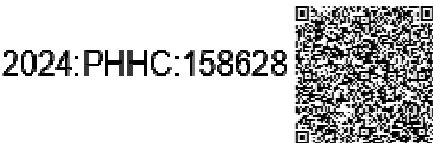
valid marriage. The said endowed right is anviled upon Article 21 of the Constitution of India.

39. Therefore, the underlined expressions (supra), as become borne in the verdict (supra), do require deference thereto becoming meted. Resultantly, the view taken by the Apex Court in the verdict (supra) is naturally required to be holding overwhelming sway and clout, over those judgments rendered by this Court, wherebys, to the adults in a live-in relationship, who do not prefer to enter into a marriage, rather express their freedom of choice to live together only in a live-in relationship, thus the espoused protection has been declined. In sequel, the socio-moral fabric of society becoming the sufferer becomes inconsequential. Contrarily, the right endowed upon the live in-couple, who prefer to live in a live-in relationship, is required to be fully protected, wherebys emergence of any tangible threat or obstruction being made to the continuity of such live-in relationship, does require theirs being ensured to be warded off, through adoption of the mechanisms, as become evolved in sub-clause (a) and (b) of paragraph 26, and, the one evolved in paragraph 27 (supra) of this verdict.

xxx xxx xxx "

10. In view of the same, it goes without saying that the protection of life and liberty is a fundamental right emanating out of Article 21 of the Constitution of India and the scope of the present petition is only regarding protection of life and liberty of the petitioners.

11. Keeping in view the abovesaid facts and circumstances and without commenting upon the legality of the relationship between the petitioners or expressing any opinion on the merits of the case, this Court deems it appropriate to dispose of the present petition with a direction to respondent no.2 to consider and decide the representation dated 25.11.2024



(Annexure P4) and to assess the threat perception to the petitioners and after considering the same to take appropriate action in accordance with law.

12. Accordingly, the petition stands disposed of with abovesaid directions. It is, however, clarified that this order shall not debar the State and/or any person aggrieved from proceeding against the petitioners for violation of any law or if they are involved in any other case.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

29.11.2024

Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No