



CRWP-12542 of 2024 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

109+241

CRWP-12542 of 2024 (O&M)
Date of Decision: 29.01.2025

Exxxxxx (minor) through her next friend Rahul
and another

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Jasvir Singh Dahliwal, Advocate
for the petitioners.

Ms. Manjot Kaur, AAG, Punjab.

Ms. Ruchi Sekhri, Advocate
for applicant-respondents No.4 and 5.

Mahabir Singh Sindhu, J.

Present petition has been filed under Article 226 of the Constitution for directing respondents No.2 and 3 to protect the life and liberty of petitioners at the hands of respondents No.4 and 5.

2. Reply by way of affidavit dated 28.01.2025 of Mr. Jatinder Singh Gill, (PPS), Deputy Superintendent of Police, Sub Division, Jalalabad, on behalf of respondents No.1 to 3, has been filed and the same is taken on record. Copy supplied to the other side.

Registry to tag the same at appropriate place.

3. It is no longer *res integra* that controversy involved in the present case is squarely covered by a Division Bench judgment of this Court

in 'Yash Pal and another Vs. State of Haryana and others', passed in



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CRWP-4660-2021, vide order dated 09.09.2024. For reference, operative part of the same reads as under:-

“42. A minor in a live-in relationship with an adult or where the live-in relationship is partnered only by minors, thereby the concerned cannot seek the protection from Courts of law. The reason for making the said conclusion becomes firmly embedded in the factum, that a minor belonging to any religious denomination, thus is incompetent to contract. If so, he/she has no capacity even to make choices or to express his/her freedom. Contrarily the freedom to make choices by the minors are ably fettered, by the statutes respectively nomenclatured as The Hindu Minority and Guardianship Act, 1956, and, as nomenclatured as Guardians and Wards Act, 1890.

43. Furthermore, in respect of religious communities other than the Hindus, the Indian Majority Act, thus prescribing the age of majority, thereby becomes the regimen whereby, there is a bar against a minor entering into a contract. The effect thereof, is that, the said disability encumbered upon a minor belonging to a religious denomination other than the Hindus, thus thereby also concomitantly preempting the minor from making any choices, disability whereof also covers the makings of ill choices qua the entering into a live-in relationship either with a minor or with an adult.

44. If protection is provided to minor partners, who are in a live-in relationship where only one of them is a minor, or where both are minors, thereby the granting of the espoused protection, rather would run counter, vis-a-vis, well statutory crampings of discretions of a minor. Moreover thereby this Court would be avoiding to perform its duty as a parens patriae towards the minors whereby rather this Court is required to be ensuring the welfare of the minor concerned. Therefore, the said solemn duty cast upon Courts of law, naturally requires



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that the minor concerned, rather than being permitted to be a partner in a live-in relationship either with a minor or with an adult, thus his/her custody is required to be ensured to be retrieved to his/her parents, and, natural guardian. However, in the above endeavour if the Court perceives that there would be an imminent threat to the life of the minor, therebys, the Courts are required to be proceeding to recourse the relevant provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015, inasmuch, as directing the minor to till his or her attaining majority, thus staying comfortably at Children Home or at a Nari Niketan, as the case may be”.

4. In the present case, as on today, there is no circumstance to indicate that petitioner is facing any imminent threat to her life. It is not in dispute that she is less than 18 years of age. Thus, in view of the above judgment (*supra*), this Court is left with no option, except to dismiss the petition.

5. Ordered accordingly.

6. Needless to say that authorities concerned shall follow the course for custody of petitioner No.1 in terms of the above judgment of Division Bench.

Pending application(s), if any, shall also stand disposed off.

29.01.2025

D.Bansal

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No