

LOVEPREET KAUR AND ANR VS STATE OF PUNJAB AND ORS

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Present : Mr. Vishal Nehra, Advocate for the petitioners.
Ms. Bhavna Gupta, DAG, Punjab.

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The matter is taken up for hearing through video conference due to COVID-19 situation.

This writ petition is filed seeking issuance of directions to the official respondents to protect life and liberty of the petitioners from the private respondents (arrayed in the petition).

As per the pleadings, the petitioners have solemnised marriage on 4.3.2021 against wishes of their parents. There is an apprehension to the petitioners that they may be eliminated. The grievance is that in spite of representation made on 4.3.2021, no steps have been taken by the official respondents.

Number of such petitions are being filed by the couples who performed marriage against the wishes of their parents and relatives. This Court is also being approached by the couples stating to be in a live-in relationship.

The non-acceptability of inter-caste marriage is a social problem which needs to be dealt at multifarious levels. The inter-caste is not the only reason for non-acceptability of marriage, there are numerous other socio-economic reasons acting as hurdles for the young couples for selecting life partner of their choice.

Over the period it is experienced that number of such petitions are filed as a matter of routine. It is evident from most of these

petitions that the day the marriage is performed, a representation is made and in some cases even the writ petition is drafted/filed on the same very day. In most of the cases, there is even no proof of submission of the representation.

The petitions of such nature are either disposed of, without commenting on the validity of the marriage and directing the official respondents to consider the representation or notice of motion is issued to the official respondents. In latter case by the next date, the police officials record the statements of the petitioners. By and large the statement is that there is no threat perception existing. The net result is that the petitions involving real serious and eminent threat get mixed up in number of petitions filed in routine.

There is another aspect of the matter. The couples who are apprehending threat perception have to travel all the way to this Court for completing the formalities for filing the writ petition, this further exposes them to threat.

A Division Bench of this Court in CWP No. 6717 of 2009—Asha and another v. State of Haryana and others, while dealing with the issue, gave following directions on 31.3.2010:

“Therefore, all the District & Sessions Judges in Punjab, Haryana and also U.T. Chandigarh are directed to ensure that if such run away couples approach them for help and assistance, interim protection shall be provided by the learned District & Sessions Judges, pending further orders of this Court. In case the District and Sessions Judge is not available, the senior-most Additional District & Sessions Judge will provide such protection.”

Over the period the picture that emerged is that in spite of directions of this Court, for one reason or the other the couples are still approaching this Court. In other words, in spite of direction of Division Bench, the issue is not addressed.

It would be apposite to mention here that with the limited pleadings in the petitions, it is impossible for this Court to gauge the genuineness or the extent of threat perception. It is ultimately the police authorities who have to look into and deal with it.

An important angle to be considered in these cases is that time is the essence.

Be that as it may, there are pleading alleging infringement of Fundamental Right. The Court would be failing to perform its duty if the grievances of petitioners are not redressed in a time bound manner.

Considering the volume of such type of petitions, Mr. Atul Nanda, Advocate General, Punjab; Mr. B.R. Mahajan, Advocate General, Haryana; Mr. Pankaj Jain, Senior Standing Counsel for Union Territory, Chandigarh; Mr. Parmod Goyal, Member Secretary, State Legal Services Authority, Haryana; Dr. Mandeep Mittal, Additional Member Secretary, State Legal Services Authority, Punjab and Mr. Mahavir Singh, Member Secretary, State Legal Services Authority, U.T., Chandigarh were asked for and they are present.

During the discussion, it was suggested by the Court that one of the way to tackle the problem is that safe houses should be made available in each district of both the States, as well as in Union Territory, Chandigarh. A website or an on-line module should be provided for such like couples to raise their grievances without being physically present. Providing of 24x7 help desk at *Tehsil* level for filing of such

representations by aggrieved persons or through someone can be of great help. An existing cell in Police department can be deputed or a new cell can be created which can deal with the representation in a time-bound manner, in any case not beyond 48 hours. It can also be ensured by authorities that in case a request is made by the couples during the period of consideration of the representation, they be provided shelter in safe house.

The Legal Services Authorities (L.S.A.) with the passage of time have been able to reach at the grass root level. Their participation would also be of great help. L.S.A. can set up 24x7 help desk for such couples with telephone service and internet connectivity at the local level.

Learned Advocate General(s) of both the States and Mr. Pankaj Jain, Senior Standing Counsel for Union Territory, Chandigarh have given a positive response to the suggestion of the Court. It is assured that all three of them along with Member Secretaries of State Legal Services Authorities can sit together, get inputs and try to find a practically workable mechanism to solve the issue.

Dr. Mandeep Mittal, Additional Secretary, Punjab State Legal Services Authority informs the Court that in Punjab there are one stop centre (Sakhi Centre) run by Health and Family Welfare Department, Punjab under the supervision of Deputy Commissioner of each district. These centres are working only for women victims.

It would be appropriate to mention here that scope of working of these centres can be enhanced and their services can be utilised for dealing with the issues of such couples.

The participation of L.S.A. would also come handy, as some of aggrieved persons may not be even aware as to what and where to

represent. They can be provided guidance and assistance by L.S.A.

Let the learned Advocate General(s) of both the States, Senior Standing Counsel for Union Territory, Chandigarh and Member Secretaries of the L.S.A. make a joint effort to give their inputs for dealing with the issue mentioned above. The Additional Chief Secretaries (Home) and Director Generals of Police of both the States should provide their full assistance and co-operation while the issue is being considered.

Let the report be filed before 22nd March, 2021.

The entire endeavour of the exercise is that some sort of workable mechanism is put in motion to ensure the protection of life and personal liberty as guaranteed under Article 21 of the Constitution of India. Further that only in exceptional cases, the couples have to take trouble to approach this Court alleging infringement of the rights.

Notice of motion to respondents No. 1 to 3 only at this stage.

Ms. Bhavna Gupta, DAG, Punjab, appearing on advance notice accepts the same and seeks time to have instructions.

Adjourned to 22.3.2021.

In the meantime, the police official not below the rank of Deputy Superintendent of Police should record the statements of the petitioners.

In case a request is made by the petitioners, they may be provided shelter in safe house till the next date.

(AVNEESH JHINGAN)
JUDGE

10th March, 2021
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