

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

124

CRWP-6314-2021

Date of decision: 09.07.2021

PUSHPA DEVI AND ANR.

.....Petitioners

Versus

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Surinder Singh, Advocate
for the petitioners.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioners have filed the present petition under Articles 226/227 of the Constitution of India for issuance of directions to respondents No.2 and 3 to protect their life and liberty from danger at the hands of respondents No.4 and 5.

The petitioners have pleaded that the petitioners aged about 21 and 19 years respectively developed love affair and are living together. Petitioner No.2 has not yet attained the age of marriage and the petitioners will solemnize marriage as and when petitioner No.2 attains the age of marriage. Respondents No.4 and 5 want to get marriage of petitioner No.1 forcibly solemnized with some boy against her choice and also threatened that both the petitioners would be killed for the sake of family prestige. The petitioners made representation dated 02.07.2021 to respondent No.2 for protection of their life and liberty but no action has been taken on the same.

Learned Counsel for the petitioners has submitted that the petitioners, who are living in live-in-relationship, made representation dated 02.07.2021 (Annexure P-3) to the Senior Superintendent of Police, District Mohali seeking necessary protection but no action has been taken so far in the matter. Therefore, appropriate direction may be given for protection of life and liberty of the petitioners.

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

Pursuant to supply of advance copy of the petition, Mr. P.S. Walia, Asstt. A.G., Punjab has appeared and accepted notice on behalf of respondents No.1 to 3.

Learned State Counsel has no objection if appropriate direction is given for protection of life and liberty of the petitioners.

In ***Nandakumar and another Vs. State of Kerala and others : 2018(2) RCR (Civil) 899*** Thushara, admittedly aged 19 years, solemnized marriage with Nandakumar, who was less than 21 years of age. Father of Thushara filed habeas corpus petition which was allowed by Kerala High Court on the grounds that Nandakumar not being of marriageable age, Thushara was not his legally wedded wife and apart from the photographs produced in the High Court, there was no evidence to solemnization of valid marriage between them and gave custody of Thushara to her father. On appeal Hon'ble Supreme Court set aside the order of the High Court and held that Thushara and Nandakumar being major had a right to live together even outside wedlock in live-in-relationship.

In ***Soni Gerry Vs. Gerry Douglas : 2018(1) RCR (Civil)650***, where the daughter, who was major, expressed a desire to reside with her father in Kuwait, where she was pursuing her education, Hon'ble Supreme Court dismissed the habeas corpus petition filed by her mother holding that the daughter being major was entitled to exercise her choice. In that case Hon'ble Supreme Court observed as under:-

"10. It needs no special emphasis to state that attaining the age of majority in an individual's life has its own significance. She/He is entitled to make her/his choice. The courts cannot, as long as the choice remains, assume the role of parens patriae. The daughter is entitled to enjoy her freedom as the law permits and the court should not assume the role of a super guardian being moved by any kind of sentiment of the mother or the egotism of the father. We say so without any reservation."

In ***CWP-31834-2019 Megha and another Vs. State of Haryana and others decided on 04.11.2019*** and ***CRWP-6700-2020 Komalpreet Kaur and another Vs. State of Punjab and others decided on 02.09.2020*** protection petitions filed by petitioners living together in live-in-relationship were disposed of by Coordinate Benches of this Court with directions to the official respondents to take appropriate action for protection of the life and liberty of the petitioners. The observations in above referred judgments are fully applicable to the facts of the present case.

In the present case the petitioners being major are entitled to live together in live-in-relationship and are also entitled to protection of their life and liberty against any harm from respondents No.4 and 5.

In view of the above discussion, the petition is disposed of

with direction to respondent No.2-Senior Superintendent of Police, District Mohali to look into the grievances of the petitioners as set out in the petition and also expressed in the representation dated 02.07.2021 and take appropriate action for protection of their life and liberty as may be warranted by the circumstances.

The Registry of this Court is directed to send a copy of this order along with copy of the petition and above-said representation to respondent No.2- Senior Superintendent of Police, District Mohali for requisite compliance.

09.07.2021

kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

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

सत्यमेव जयते