

CASE HEARD THROUGH VIDEO CONFERENCING

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP No.7903 of 2021 (O&M)

Date of decision: 01.09.2021

Ishrat Bano and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. M.K. Dhot, Advocate
for the petitioners.

Mr. Sukhbir Maandi, Advocate
for Alia Hasan (earlier wife of petitioner No.2)

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. S.K. Singla, Advocate
for respondents No.5 to 9.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this writ petition is for issuance of a direction to the official respondents to protect the life and liberty of the petitioners at the hands of respondents No.5 to 9.

Counsel for the petitioners has argued that the petitioners have performed the marriage and are apprehending threat to their life and liberty at the hands of respondents No.5 to 9. It is further submitted that previously, the petitioner No.2 was married to one Alia Hasan and the marriage was annulled by way of divorce documents dated 26.07.2018, 27.08.2018 and 27.09.2018 i.e. vide 03 divorce deeds executed by petitioner No.2 – Aslam Khan himself.

A perusal of these 03 divorce deeds relied upon by the petitioners reveals that these are one sided documents prepared by petitioner No.2 and there are two common witnesses namely Shehnaz Ali and Feroz Khan. There is no signature of the first wife of petitioner No.2 namely Alia Hasan, giving her consent to such divorce. Even otherwise, a perusal of these divorce deeds further reveal that the

CASE HEARD THROUGH VIDEO CONFERENCING

marriage of petitioner No.2 was performed with Alia Hasan on 06.07.2013 and out of the said wedlock two daughters namely Sohalia Aslam and Amima Aslam were born, who are alive and residing with the first wife of petitioner No.2 i.e. Alia Hasan.

Counsel for the petitioners has further argued that after this one sided customary divorce, the petitioner No.2 has now performed marriage with petitioner No.1 on 20.08.2021. The Co-ordinate Bench while taking up this petition has directed the petitioners to inform the Court as to how much amount, the petitioner No.2 is ready to give to his earlier wife to enable her to maintain herself.

Despite taking 02 dates, no such proposal has come.

This Court cannot ignore the fact that the Court being legal guardian of the 02 minor girls, who are living at the mercy of their mother – Alia Hasan, as the petitioner No.2 is not only claiming to have divorced his first wife Alia Hasan but he has also refused to maintain and take care of the upbringing of his 02 minor daughters aged 4½ years and 02 years.

On the face of it, the present petition is nothing but a ploy to seek a seal of this Court regarding the lustful and adulterous life of petitioner No.2 with petitioner No.1 and the Court cannot be a party to the same. The arguments of petitioner No.2 that he has a right to perform second marriage under Muslim Law is misconceived as this Court instead of taking an academic view is more concerned about the welfare of 02 minor girls as it is clear that petitioner No.2 has intentionally failed to maintain his first wife and 02 minor daughters.

Accordingly, the present petition is dismissed with Rs.1,00,000/- costs to be paid to Alia Hasan.

**(ARVIND SINGH SANGWAN)
JUDGE**

01.09.2021

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Whether speaking/reasoned: Yes/No

LPA-769-2021 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(PROCEEDINGS THROUGH VIDEO CONFERENCING)

LPA-769-2021 (O&M)

Date of Decision: 03.09.2021

Ishrat Bano & another

...Appellants

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Mandeep Kumar Dhot, Advocate,
for appellant No.1.

Mr. Sukhbir Maandi, Advocate
for appellant No.2.

Mr. Avinit Avasthi, AAG, Punjab.

Mr. Sunny Singla, Advocate
for the private respondents.

AUGUSTINE GEORGE MASIH, J. (ORAL)

The present appeal has been preferred against the order dated 01.09.2021 passed by the learned Single Judge in Criminal Writ Petition No.7903 of 2021, titled as 'Ishrat Bano & another Vs. State of Punjab & others', which was preferred by the appellants seeking protection to their life and liberty, which they said was threatened at the hands of respondents No.5 to 9. Highlighting this aspect, appellants had submitted a representation to the Senior Superintendent of Police, Maler Kotla, dated 17.08.2021 (AnnexureP-5) with copies thereof to the Station House Officer, Police Station City-1, Maler Kotla and Station House Officer, Police Station

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Amargarh, Maler Kotla, respondents No.2 to 4. Counsel for the appellants states that the only prayer of the appellants before this Court is that their life and liberty may be protected and they have nothing to say with regard to the aspect of criminal case(s) registered against them, for which the law will take its own course and the appellants would avail of the remedy accordingly. He, therefore, asserts that the appeal may be allowed to the limited extent, as prayed for.

On the other hand, learned counsel for private respondents No.5 to 9, Mr. Sunny Singla, Advocate, has tried to project and argue with regard to the legality of the divorce as well as the subsequent marriage but keeping in view the fact that the said aspect has not been considered by the learned Single Judge nor are we inclined to look on this aspect and are limiting it to the prayer which has been made by the counsel for the appellants by leaving it open to the parties to agitate the said aspect in the proper forum. It is made clear that we have not opined about the validity or otherwise either on the alleged divorce given by appellant No.2 to one Alia Hasan or the alleged marriage between the appellants.

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

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

(AUGUSTINE GEORGE MASIH)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

03.09.2021

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