

CRWP-5949-2021

KULBIR KAUR AND ANR V/S STATE OF PUNJAB AND OTHERS

Present : Mr. Parampreet Singh Bajwa, Advocate  
for the petitioners with the petitioners.

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

The petitioners, claiming themselves to be aged about 17 years and 6 months and 28 years respectively, have approached this Court seeking protection of their life and liberty on the averments that they performed marriage on 16.06.2021 at their friends residence as per Hindu rites and ceremonies against the wishes of respondents No.4 to 6 and the petitioners are apprehending threat to their life and liberty at their instance.

Learned Counsel for the petitioners has submitted that the petitioners after performing marriage are living together. The petitioners have apprehension of danger to their life from respondents No.4 to 6. No action for protection of their life and liberty has been taken by the police despite making of representation by them and direction in this regard may be issued to respondents No.2 and 3 for protection of their life and liberty. In support of his submissions learned Counsel for the petitioners has placed reliance on the judgments passed by the Coordinate Bench of this Court in ***CRWP-7911-2020 (O&M) titled as 'Divya Vs. State of Punjab and others' decided on 09.10.2020*** and ***CRWP-7659-2020 titled as 'Banshi Lal and another Vs. State of Haryana and others' decided on 25.09.2020.***

Notice of motion.

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

Learned State Counsel has submitted that petitioner No.1 is less than 18 years of age falling within the definition of child under Section 2(a) of the Prohibition of Child Marriage Act, 2006. Section 9 of the Prohibition of Child Marriage Act, 2006 provides punishment for

a person who performs child marriage. Petitioner No.2 is not entitled to custody of petitioner No.1. The life and liberty of petitioner No.1 has to be protected by sending her to child care institution under the care of Child Welfare Committee. In support of his submissions, learned State Counsel has placed reliance on judgment of Hon'ble Supreme Court in ***Independent Thought Vs. Union of India and another : (2017) 10 SCC 800*** and this Court in ***CRM-M-22389-2020 titled as 'Parminder Singh Vs. State of Haryana and others' decided on 24.09.2020.***

Learned State counsel also seeks time to file detailed reply and address arguments.

Learned Counsel for the petitioner also seeks time to submit copies of the judicial precedents relied upon by him.

Petitioner No.1 has also prayed for providing requisite protection to her against physical harm by respondents No.4 to 6. Since petitioner No.1 is now in Chandigarh, requisite protection has also to be provided to her in U.T. Chandigarh. In view of the facts and circumstances of the case, U.T. Chandigarh and Senior Superintendent of Police, U.T. Chandigarh are ordered to be impleaded as respondents No.7 and 8. Memo of parties be amended accordingly.

At this stage, Mr. Shashank Bhandari, Addl. Public Prosecutor has appeared and accepted notice on behalf of respondents No.7 and 8 and seeks time to complete his instructions.

Adjourned to 23.07.2021.

Notices to respondents No.4 to 6 be issued for the date fixed and notices be also given dasti, if so desired.

In the meanwhile, respondent No.8-Senior Superintendent of Police, U.T. Chandigarh is directed to take over custody of petitioner No.1 from petitioner No.2 and to ensure that till further orders to the contrary petitioner No.1 is kept in Aashiana, Sector-15, Chandigarh and also to take appropriate action for protection of her life and liberty from danger at the instance of respondents No.4 to 6. All the expenses for stay of petitioner No.1 in Aashiana, Sector-15, Chandigarh shall be borne by the U.T. Chandigarh.

Respondent No.2-Senior Superintendent of Police,

Malerkotla is also directed to take appropriate action for protection of the life and liberty of petitioner No.2 at the place of his present residence as may be warranted by the threat perception/facts and circumstances of the case.

However, nothing in this order shall prevent respondents No.2 and 3 from registering criminal case against petitioner No.2 and taking appropriate action against him in accordance with law as may be warranted by the facts and circumstances of the case.

To be shown in the urgent list.

A copy of this order be supplied to learned State Counsel for the State of Punjab and learned Additional Public Prosecutor for U.T. Chandigarh and be also sent to respondent No.2-Senior Superintendent of Police, Malerkotla and respondent No.8-Senior Superintendent of Police, U.T. Chandigarh for requisite compliance.

**01.07.2021**

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**(ARUN KUMAR TYAGI)  
JUDGE**

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