

(2023) 01 P&H CK 0032

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 134 Of 2023 (O&M)

Chandrakala Devi And Another

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 09-01-2023

Acts Referred:

Constitution Of India, 1950 — Article 21, 226, 227

Citation : (2023) 01 P&H CK 0032

Hon'ble Judges : Aman Chaudhary, J

Bench : Single Bench

Advocate : Arshdeep Kaur, Yashpal Thakur, Manipal Singh Atwal

Final Decision : Disposed Of

Judgement

Aman Chaudhary. J

The present petition has been filed under Article 226/227 of the Constitution of India for issuance of writ in the nature of mandamus directing respondent Nos.2 and 3 to protect life and liberty of the petitioners at the hands of respondent Nos.4 to 7, as they are living in-relationship against the wishes of their family members.

As per averments made in the petition, both the petitioners are major. Petitioner No.1 is 30 years old and petitioner No.2 is 23 years old. Copies of Aadhar card of petitioner No.1 and Voter card of petitioner No.2 are appended with the petition as Annexures P-1 and P-2, respectively. The petitioners are in a 'live-in relationship', on account of which family members of petitioner No.2 are giving threats to them.

The issue as to whether the marriage is must for providing protection to a couple 'live-in relationship', keeping in view the fundamental rights ensured under Article 21 of the Constitution of India, has been considered by the different Benches of this Court in CRWP-4521-2021 titled as "Pardeep Singh and another vs. State of Haryana and others" decided on 18.5.2021; CRWP-8081-2021 titled

as "Goutam Kumar and another vs. State of Punjab and others" decided on 26.8.2021 and also the Division Bench in LPA 769-2021 titled as "Ishrat Bano and another vs. State of Punjab and others" decided on 3.9.2021 and in LPA 1678-2014 titled as "Rajwinder Kaur and another vs. State of Punjab and others" decided on 9.10.2014.

This Court in Pardeep Singh's case (supra) while granting protection to the petitioners therein where they were residing in live-in relationship, has held as under:

"The Constitution of India is the Supreme Law of the land. Right to life and liberty is enshrined therein and is treated as a basic feature. The said right includes the right of an individual to full development of his/her potential in accordance with his/her choice and wish and for such purpose, he/she is entitled to choose a partner of his/her choice. The individual also has the right to formalize the relationship with the partner through marriage or to adopt the non-formal approach of a live-in relationship. The concept of live-in-relationships has crept into our society from western nations and initially, found acceptance in the metropolitan cities, probably because, individuals felt that formalization of a relationship through marriage was not necessary for complete fulfillment. Education played a great role in development of this concept. Slowly, the concept has percolated into small towns and villages also as is evident from this petition. This shows that social acceptance for live-in-relationships is on the increase. In law, such a relationship is not prohibited nor does it amount to commission of any offence and thus, in my considered view such persons are entitled to equal protection of laws as any other citizen of the country. The law postulates that the life and liberty of every individual is precious and must be protected irrespective of individual views.

Let us examine the issue from another view-point. The Constitutional Courts grant protection to couples, who have married against the wishes of their respective parents. They seek protection of life and liberty from their parents and family members, who disapprove of the alliance. An identical situation exists where the couple has entered into a live-in-relationship. The only difference is that the relationship is not universally accepted. Would that make any difference ? In my considered opinion, it would not. The couple fears for their safety from relatives in both situations and not from the society. They are thus, entitled to the same relief. No citizen can be permitted to take law in his own hands in a country governed by Rule of Law.

The petition is accordingly, disposed of with direction to respondent No.2 to consider the representation dated 9.5.2021 (Annexure P3) and to provide appropriate protection, if found necessary. It shall be ensured that no harm comes either to the lives or liberty of the petitioners."

In Rajwinder Kaur's case (supra), the Division Bench has held as under:-

"We have no reason to doubt that the fundamental right to life and liberty is so

sacrosanct and stands at such a high pedestal that it must be protected even in the absence of an incident like solemnization of a valid marriage between the parties. While the appellants might be required to satisfy an appropriate forum regarding the validity of their marriage but even in the absence of such validation, the State is obligated to protect their life and liberty. We, thus, modify the order passed by the learned Single Judge and dispose of this appeal with a direction to the respondent-police-authorities to ensure that no harm is caused by anyone to the life and liberty of the appellants. The police-authorities shall, however, verify the age of the appellants and if any further remedial action is required to be taken on such verification, the same shall be taken forthwith."

Thus, in view of the law laid down in Pardeep Singh's case (supra) and Rajwinder Kaur's case (supra), this Court is of the view that even in case the petitioners are in a "Live-in Relationship", the protection qua the life and liberty of the petitioners being sacrosanct stands at the highest pedestal. Thus, the petitioners are entitled to be granted protection of life and liberty.

Resultantly, in view of the above prayer made by the petitioners and without commenting upon the aspect of the nature of relationship between the petitioners or expressing any opinion on merits of the case, the present petition is disposed of with a direction to respondent No.2 to look into the representation dated 03.01.2023 (Annexure P-3) and if any threat perception is found, to take appropriate action in accordance with law.

It is however, made clear that this order shall not preclude the authorities to proceed against the petitioners, in case, they are found involved in any other civil or criminal proceedings, instituted/ pending against them.