
(2020) 09 P&H CK 0007

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 5839 Of 2020

Ritu And Another

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 02-09-2020

Acts Referred:

Hindu Marriage Act, 1955 — Section 9

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

Citation : (2020) 09 P&H CK 0007

Hon'ble Judges : Amol Rattan Singh, J

Bench : Single Bench

Advocate : Karan Singh, Rahul Singla, Lekhraj Sharma, Praveen Bhadu

Final Decision : Allowed

Judgement

Amol Rattan Singh, J

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

By this petition, the petitioners seek issuance of a writ, order or direction in the nature of 'MANDAMUS', directing respondents no.2 and 3 to protect their lives and liberty at the hands of private respondents.

The Additional Superintendent of Police, Sonipat, has filed a reply to the petition, stating therein that the statements of respondents no.4 to 8 were recorded by the police, in all of which they have stated that they have no objection to the petitioners living with each other, though they do not know where they are living.

However, Mr. Lekhraj Sharma, learned counsel appearing for the said respondents, submits that petitioner no.1 is the wife of respondent no.4 and in fact petitioner no.2 is a cousin of respondent no.4.

He further submits that there being no evidence whatsoever of the said respondents ever having threatened the petitioners, there is no question of

extending protection of their lives and liberty.

Mr. Sharma has further submitted that petitioner no.2 has criminal antecedents, with him having been convicted for the commission of offences punishable under the provisions of NDPS Act, 1985 etc.

Learned State counsel naturally submits in terms of the affidavit filed on behalf of respondents no.1 to 3.

Learned counsel for the petitioners, however, submits that in terms of the statements made by respondents no.4 to 8, copies of which have been annexed with the affidavit of the Addl. S.P., the petitioners would have no objection to the petition being disposed of, subject to their lives and liberty being protected.

Having considered the matter, without making any comment at all on the nature of relationship between the petitioners, including whether it is a prohibitory relationship or not, what this court is to observe that this is a petition filed under the provisions of Articles 226 and 227 of the Constitution of India, seeking a direction to the official respondents to protect the lives and liberty of the petitioners at the hands of respondents no.4 to 8.

That being so and protection of such life and liberty being a basic fundamental right enshrined in Article 21 of the Constitution, I would see no reason whatsoever to not direct the respondents no.1 to 3 to ensure that such life and liberty is protected as per law; and if respondents no.4 to 8 or any of them are apprehensive of any threat to their lives and liberty at the hands either of the petitioners (with Mr. Sharma again pointing to the criminal antecedents of petitioner no.2 as alleged), naturally their lives and liberty would equally be protected by the official respondents at the hands of the petitioners or any other persons.

Consequently, this petition is disposed of with a direction to respondents no.1 to 3 to ensure that the life and liberty of the parties remain protected as per law at the hands of each other or at the hands of any other person.

It is made absolutely clear (though no such clarification is required), that any proceedings initiated by respondent no.4 or any competent person under Section 9 of the Hindu Marriage Act, 1955, or any other civil proceedings initiated, will proceed on their own merits, the order passed in this petition being limited to only the question of protection of lives and liberty.

At this stage, learned State counsel has specifically pointed to the statement made by respondent no.4, i.e. the husband of petitioner no.1, to the effect that he has no objection to the petitioners carrying on in a live in relationship with each other. However, Mr. Sharma submits that the statement if at all made, it was under the duress of the police and consequently, the said respondents cannot be held to it.

This court already having observed hereinabove that no orders passed in this

petition would prejudice or affect in any manner the rights of parties in any petition filed under the provisions of Section 9 of the Hindu Marriage Act or any other civil proceedings, naturally, nothing further needs to be stated by this court in that regard, except to reiterate that the lives and liberty of all parties, would be protected by the official respondents, as per law.