
(2023) 01 P&H CK 0005

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 12342 Of 2022

?Shalu And Another

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 02-01-2023

Acts Referred:

Constitution Of India, 1950 — Article 21, 226

Citation : (2023) 01 P&H CK 0005

Hon'ble Judges : Nidhi Gupta, J

Bench : Single Bench

Advocate : Surajbhan Panchal

Final Decision : Disposed Of

Judgement

Nidhi Gupta, J

Prayer in the instant petition filed under Article 226 of the Constitution of India is for issuance of directions to respondents No.2 and 3 to protect the life and liberty of the petitioners, who are living in live-in relationship against the wishes of private respondents i.e. respondents No.4 to 6.

Petitioner No.1-Shalu is stated to be born on 01.04.1991 and for this purpose, reference has been made to Aadhaar Card (Annexure P-1). Petitioner No.2-Sanjiv is stated to be born on 04.02.1991 and for the said purpose, reference has been made to Aadhaar Card (Annexure P-2). It is stated that the petitioners are in a "Live in Relationship".

Learned counsel for the petitioners has stated that a co-ordinate Bench of this Court in a judgment dated 18.05.2021 passed in CRWP-4521- 2021 titled as

"Pardeep Singh and another vs. State of Haryana and others" has granted protection in a case where the petitioners were living in a "Live in Relationship".

Learned counsel has further relied upon an order passed by a coordinate Bench of this Court dated 03.09.2021, passed in CRWP-7874-2021 titled as "Paramjit

Kaur and another vs. State of Punjab and others” as per which although the divorce petition filed by petitioner no.2 therein was dismissed, yet this Court had granted protection to the petitioners.

Learned Counsel for the petitioners has relied upon an order passed by a Co-ordinate Bench of this Court dated 02.11.2021 passed in CRWP-10411-2021 Amandeep Kaur & Anr. Vs. State of Punjab & Ors. As per which in a case where one of the parties was married and was living in with another person other than her husband, this Court had granted protection to the petitioners.

Learned counsel has further submitted that the petitioners have given a representation dated 27.12.2022 (Annexure P-3) to respondent No.2-Senior Superintendent of Police, Kaithal and they would be satisfied in case respondent no.2 is directed to look into the said representation and after considering threat perception to the petitioners, to take appropriate action.

Notice of motion.

Ms. Ambika Luthra, Additional AG Haryana appears and accepts notice on behalf of respondents Nos.1 to 3 and has stated that she has no objection in case respondent no.2 is directed to look into the representation of the petitioners on the aspect of threat perception and to take appropriate action, in accordance with law.

This Court has heard learned counsel for the parties.

In Pardeep Singh's (supra), a co-ordinate Bench of this Court 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.”

Thus, this Court is of the view that even if the petitioners are living in a “Live in Relationship”, they are entitled to the protection of their life and liberty.

It goes without saying that the protection of life and liberty is a basic feature of the Constitution of India as emanating out of Article 21. Every person, more so, a major, has right to live his/her life with a person of his/her choice. Whenever this Court, prima-facie, is satisfied that on account of some relatives/ persons being unhappy with the relationship between the petitioners could cause harm to the life and liberty of the petitioners, then in such circumstances, the Courts are required to pass necessary directions for their protection.

Keeping in view the abovesaid facts and circumstances and without commenting upon the legality of the relationship between the petitioners or expressing any opinion on the merits of the case, this Court deems it appropriate to dispose of the present petition with a direction to respondent no.2 to consider the representation dated 27.12.2022 (Annexure P-3) and to assess the threat perception to the petitioners and after considering the same, respondent No.2 shall take appropriate action in accordance with law.

Accordingly, the petition stands disposed of with abovesaid directions.