

HIGH COURT OF PUNJAB & HARYANA**Coram: Hon'ble Mr. Justice Vikas Bahl****Date of Decision: 28.03.2024**

CRWP-2822-2024

Ramandeep and another ... Petitioners**VERSUS****State of Punjab and others ... Respondents****Legislation and Rules:**

Article 226 of the Constitution of India

Subject: A Criminal Writ Petition seeking protection of life and liberty for the petitioners in a live-in relationship, despite not being of marriageable age.

Headnotes:

Petitioners' Rights to Life and Liberty Under Live-in Relationship – Judicial Precedence and Constitutional Rights – Held – Petitioners, despite being in a non-marital live-in relationship, are entitled to protection of their life and liberty as enshrined under Article 21 of the Constitution of India. The Court, relying on past judgments, emphasizes that the legal recognition or status of the relationship does not diminish the right to protection. Petitioners' fundamental rights upheld irrespective of their marital status or age of majority. [Paras 2-4, 9, 10, 13]

Directions to Police for Protection – Assessment of Threat Perception – Held – Respondent No.2, Senior Superintendent of Police, Ferozepur, directed to consider the petitioners' representation for protection and assess any threat to their life and liberty. Appropriate action to be taken in accordance with the law, ensuring the safety of the petitioners, reflecting the Court's commitment to safeguard individual rights under the Constitution. [Para 14]

Judicial Approach towards Non-Conventional Relationships – Analysis – Held – The Court demonstrates a progressive approach in acknowledging and protecting individuals in live-in relationships. Recognizes the evolving societal norms and extends legal protection irrespective of traditional marital boundaries, underscoring the primacy of individual liberty and rights over societal conventions. [Paras 8-10, 12, 13]

Decision – Protection of Life and Liberty in Live-in Relationship – Court grants protection to the petitioners, living in a live-in relationship, directing the police to assess and respond to their safety concerns. The judgment reiterates the sanctity of life and liberty under the Constitution, extending its protection to relationships outside the traditional marital framework. [Paras 14-15]

Referred Cases:

- Jashanpreet Kaur and another Vs. State of Punjab and others, 2019(4) RCR (Civil) 183
- CRWP-4521-2021 Pardeep Singh and another vs. State of Haryana and others
- CRWP-7874-2021 Paramjit Kaur and another vs. State of Punjab and others
- LPA-769-2021 Ishrat Bano and another vs. State of Punjab and others

Representing Advocates:

Mr. Bachanpreet Singh for the petitioners.

Mr. Kunwarbir Singh, Asstt.A.G. Punjab.

VIKAS BAHL, J.(ORAL)

1. The present Criminal Writ Petition has been filed under Article 226 of the Constitution of India for directing respondents no.2 and 3 to protect the life and liberty of the petitioners.
2. Learned counsel for the petitioners has submitted that petitioner no.1 was born on 06.06.2003 and petitioner no.2 was born on 29.10.2002. Reliance has been placed upon the Aadhaar Cards (Annexures P-1 and P-2). It is submitted that although the petitioners are major but petitioner no.1 is not of marriageable age. It is the case of the petitioners that they are unmarried and are living in a “*Live in Relationship*” out of their free will and without any pressure. It is further submitted that the petitioners have given a detailed representation dated 26.03.2024 (Annexure P-3) to respondent No.2- Senior Superintendent of Police, Ferozpur as they are apprehending harm to their life and liberty and have, thus, sought protection.
3. Learned counsel for the petitioners has relied upon the judgment passed by the Coordinate Bench of this Court in case ***Jashanpreet Kaur and another Vs. State of Punjab and others***, reported as ***2019(4) RCR (Civil) 183***, in which case although, girl therein was aged about 15 years and 8 months and boy was aged about 19 years and 3 months, yet the Coordinate Bench after considering the provisions of Hindu Marriage Act, 1955, was pleased to protect the life and liberty of the petitioners therein.

The relevant portions of the said judgment is reproduced hereinbelow:-

“1 to 5 xxx xxx

6.Facts, as pleaded in the petition, succinctly are that thepetitioner No.1, a minor girl born on 04.10.2003 and petitioner No.2, a boy born on 10.03.2000, though a major, but not of marriageable age, purportedly are in love with each other and got married on 17.06.2019 at Panchkula according to Hindu Rites and Ceremonies. Photographs of their marriage have been appended with the petition.

7.to 16. xxx xxx

17. The issue in hand, however, is not marriage of the petitioners,but the deprivation of fundamental right of seeking protection of life and liberty. I have no hesitation to hold that Constitutional Fundamental Right

under Article 21 of Constitution of India stands on a much higher pedestal. Being sacrosanct under the Constitutional Scheme it must be protected, regardless of the solemnization of an invalid or void marriage or even the absence of any marriage between the parties.

- 18. It is the bounden duty of the State as per the Constitutional obligations casted upon it to protect the life and liberty of every citizen. Right to human life is to be treated on much higher pedestal, regardless of a citizen being minor or a major. The mere fact that the petitioners are not of marriageable age would not deprive them of their fundamental right as envisaged in Constitution of India, being citizens of India.*
- 19. In view of the discussion above, the Senior Superintendent of Police, Batala is directed to verify the contents of the petition particularly the threat perception of the petitioners and thereafter provide necessary protection qua their life and liberty, if deemed fit.*
- 20. It is clarified that this order shall neither be treated as a stamp of this Court qua marriage of the petitioners nor any reflection on the merits of the contentions raised by them in the present petition.*
- 21. The writ petition is, accordingly, disposed of. ”*

4. Learned counsel for the petitioners has further relied upon the judgment dated 18.05.2021 passed by a Coordinate Bench of this Court in **CRWP-4521-2021** titled as **“Pardeep Singh and another vs. State of Haryana and others”** in which protection has been granted in a case where the petitioners were living in “Live in Relationship”.
5. Learned counsel for the petitioners has further relied upon an order passed by a co-ordinate Bench of this Court dated 03.09.2021 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.
6. Notice of motion to respondent Nos.1 to 3 only.
7. On advance notice, Mr.Kunwarbir Singh, Asstt.A.G. Punjab, appears and accepts notice on behalf of respondent Nos.1 to 3. He has stated that he has no objection in case, respondent No.2-Senior Superintendent of Police, Ferozepur, looks into the representation dated 26.03.2024 (Annexure P-3) with a limited prayer for only protection of life and liberty of the petitioners and takes appropriate action, in accordance with law.

8. This Court has heard the learned counsel for the parties and has perused the paper book.
9. 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.”

10. Thus, this Court is of the view that even if the petitioners are living in a “Live in Relationship”, they are entitled to protection of life and liberty. It would also be relevant to refer to a judgment of the Division Bench of this Court dated 03.09.2021 passed in **LPA-769-2021** titled as “**Ishrat Bano and another vs. State of Punjab and others**”. Ishrat Bano (petitioner therein) had filed Criminal Writ Petition no.7903 of 2021 which was dismissed by the learned Single Judge of this Court. The relevant portion of the order passed by the learned Single Judge dated 01.09.2021 is reproduced hereinbelow:-

“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 marriage of petitioner No.2 was performed with Alia Hasan on 06.07.2013 and out of the said wedlock two daughters namely Sohaila 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 Coordinate 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.”

11.A perusal of above would show that since the Court had primarily observed that the divorce documents were one sided documents, thus, prima-facie it appeared that the divorce was not legal. The matter was taken up in appeal and the Division Bench of this Court vide judgment dated 03.09.2021 passed in **LPA-769-2021** titled as “**Ishrat Bano and another vs. State of Punjab and others**” held as under:-

“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 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.”

12. Thus, the Division Bench after considering the aspect of protection of life and liberty being of paramount consideration and without getting into the issue as to whether the relationship between the parties was legal or not, however, granted them protection of life and liberty.
13. In view of the same, it goes without saying that protection of life and liberty is a basic feature of the Constitution of India. Every person, more so, a major, has the right to live his / her life with a person of his / her choice. At any rate, 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.
14. Keeping in view the abovesaid facts and circumstances and without commenting upon the legality of the relationship or expressing any opinion on 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 26.03.2024 (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.
15. Accordingly, the petition stands disposed of with above said directions.
16. It is, however, clarified that this order shall not debar the State from proceeding against the petitioners, if involved in any other case.

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