IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CRWP-7893-2025

Date of Decision:-23.07.2025

Jaswinder Kaur & Anr.

.....Petitioners.

Vs.

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Ajay Singh Pundir, Advocate for the Petitioners.

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JASJIT SINGH BEDI, J.(ORAL)

The present Criminal Writ Petition has been filed under Article 226 of the Constitution of India for issuance of directions to respondent Nos. 1 to 3 to protect the life and liberty of the petitioners from the hands of private respondent nos.4 to 6.

2. The petitioner no.1 is stated to have been born on 01.01.1996 and for this purpose, reference has been made to the Aadhaar card (Annexure P-1). The petitioner no.2 is stated to have been born on 01.01.1981 and for the said purpose, reference has been made to the Aadhaar card (Annexure P-2). It is stated that the petitioners are in a "Live in Relationship". Petitioner No.1 had solemnized marriage with one Mangal Singh and also had a minor daughter who is residing with her. She is residing separately from her husband. Petitioner No.2 is also married with respondent no.4 and had one son and one daughter who are residing with respondent no.4 (father). Petitioner no.2 is also residing separately for the

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last many years. As such, the petitioner No.1 is in a 'live-in-relationship' with petitioner No.2.

3. 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".

4. The 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.

5. The learned Counsel for the petitioners has also 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 therein.

6. The learned counsel has further submitted that the petitioners have sent a representation dated 17.07.2025 (Annexure P-3) to respondent no.2 and they would be satisfied in case respondent no.2 is directed to look into the said representation and after considering the threat perception to the petitioners, take appropriate action in accordance with law.

7. Notice of motion to respondents Nos.1 to 3 only.

8. On advance notice, Mr. Harkanwar Jeet Singh, Assistant Advocate General, Punjab appears and accepts notice on behalf of respondents Nos.1 to 3 and has stated that he has no objection in case

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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.

9. This Court has heard learned counsel for the parties.

10. 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*

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> *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 exits 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.*
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> *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.*"

11. 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. With respect to the aspect of the petitioners not being divorced from their respective spouses, it is 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.*

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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 Sohalia 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 Co-ordinate 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

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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."

12. A perusal of above would show that 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*

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> *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.*"

13. Thus, the Division Bench after considering the aspect of the protection of the 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, even in spite of the fact that there was a criminal case registered against the parties, however, granted them protection.

14. In view of the above discussion, 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, moreso, a major, has right to live his/her life with a person of his/her choice subject to the law as applicable. 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.

15. 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 17.07.2025 (Annexure

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P-2) 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.

16. Accordingly, the petition stands disposed of with the abovesaid directions.

17. It is, however, clarified that this order shall not debar the State and/or any person aggrieved from initiating appropriate proceedings against any or both of the petitioners, if any cause of action arises by the petitioners 'living in' together or if they are involved in any case.

(JASJIT SINGH BEDI)
JUDGE

July 23, 2025
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Whether speaking/reasoned	***Yes/No***
Whether reportable	***Yes/No***

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