IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP No. 3625 of 2020
Date of Decision: 12.6.2020

Hardeep Kaur and another ...Petitioners

Vs.

State of Punjab and others ...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Shakti Mehta, Advocate for the petitioners.
Mr. Suveer Sheokhand, Addl. AG Punjab.

RAJIV NARAIN RAINA, J. ***(Oral)***

1. Case is taken up for hearing today through video conferencing due to pandemic of COVID-19.

Main case

2. Petitioners have married against the wishes of their parents. They have approached this Court for directions to protect their life and liberty. The prayer is based upon Article 21 of the Constitution of India and, therefore, deserves the immediate attention of the Police Department to ensure that the couple is not unduly harassed by anyone including their respective parents.

3. Therefore, a direction must go to the Commissioner of Police, Jalandhar, Punjab to take steps which are consistent with their safety. These directions are issued as guided by the Supreme Court in Lata Singh Vs. State of UP and another, 2006 (3) RCR (Criminal) 870. The couple is at liberty to present a representation to the police describing their apprehension from those who oppose the union so that effective steps are taken.

4. With these directions, the instant petition is disposed of without

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expressing any opinion on the validity of marriage.

Note:

5. When this matter came up for hearing on 11.6.2020, this Court asked the counsel where was the need to attach photos of the ceremony when the person performing the rites was not in the picture and neither was I interested to look at them in a protection petition by a runaway couple. He said if the photos are not placed on record the registry raises an objection. To check out the position I passed the following order, as I was unable to fathom why in a large number of these petitions photographs of the ceremony is attached or is required by rule to be appended and for what need or purpose. The order said:-

> *"This matter is being taken up for hearing through video conferencing/WhatsApp due to pandemic COVID-19.*
>
> *On a query, learned counsel for the petitioners submits that if the photographs of the petitioners are not annexed with the petition, the Registry raises objections.*
>
> *In these circumstances, Registry is directed to explain why they are raising objections for not annexing the photographs in protection matters.*
>
> *List again on 12.6.2020.*
>
> *Meanwhile, coercive steps will not be taken against the petitioners till the next date of hearing."*

6. As a result of the order, the Registry has come forth and explained the position in the Note dated 12.6.2020 placed on record as follows:

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> *"It is submitted that Registry never raise an objection if the photographs are not annexed with the petition filed by the run away couples. However, most of the petitions filed by run away couples, photographs already annexed with the petitions and some of the petitioners has not annexing the photographs but Registry does not raise specific objections in this regard.*
>
> *It is further submitted that if the annexed photographs are not visible then the Registry raise an objection to file visible photographs of the petitioner as per the Objection No. 73 (a) of the Objection Check List available on the High Court Website."*

7. With this Note from the Registry the position has become clear that the Registry raises no objections if the photographs are not attached. But if they are appended and not visible or clear enough to the eye, then the objection is raised, which objection has substance in the context. There are no rules or instructions of the High Court on the subject matter which has detained me and therefore directions are required to be issued to remove surplusage from these petitions and to keep them to the bare minimum.

8. Before I part with the order I may say that in many cases and not that it matters, the photographs of the couple do not even show the *maulvis, granthis* and *purohits/pandits* etc who performed the "ceremony" and just two of them, these days wearing masks. They appear like studio photos with lots of pictures of Gods and Goddesses showering blessings on them, which photos actually make no difference in support of protection petitions. The Court has no interest in looking at the pictures except curiosity which when

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placed on record distracts the mind and potentially van invite needless comments from the Bench and waste its time. The diversion often needlessly diverts the case to a momentary standstill just when only a simple direction is sought and mechanically issued based upon Article 21 of the Constitution of India to save young couples from distress and apprehended physical harm from angry parents and their families opposing the marriage. The truth of it is impossible to reach.

9. Over the years a cottage industry has grown around these petitions and time has come to trim them to the basic demands of pleadings. Dealing with these petitions at the financial expense of runaway couples actually believing that they will get a marriage certificate from the High Court, is no pleasure. The High Court was not built or meant for this parasitical non-litigation. These runaways may have little resources in their pocket and the money spent abundantly on the thriving industry could well last the couple their necessities for quite a long time or at least till they live on love and fresh air. This practice deserves to be curtailed as it is a big burden and drain on the resources of the High Court and its staff from the filing stage to uploading the order. I believe it to be the most demeaning childlike work High Court Judges have been forcibly tasked with by a creation of the ingenious Bar and a solution needs to be devised to caste the burden on some other alternative mechanism of redress including by amending the law and conferring such power on the subordinate judiciary etc. This is just a suggestion to unburden the court from this litigation. It is for the legislature to find solutions, if required or deemed expedient. There is an interesting treatise and ethnographic research on the subject of runaway couples

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authored by Dr Rama Srinivasan dealing specifically with litigation in the High Court in her book "Courting Desire: Litigating for Love in Northern India (Politics of Marriage and Gender: Global Issues in Local Contexts)" Paperback – January 17, 2020 published by the Rutgers University Press, USA which is worth reading.

10. However, as far as the Registry is concerned, it is directed that photographs would not be attached with protection petitions by runaway couples unless there is an affidavit of counsel that they are necessary for the understanding of the case, for which reasons must be assigned by way of an application. The Registry will stop entertaining any annexures containing photographs of couples as evidence or proof of marriage and demand an affidavit of necessity, explaining the purpose they are important to the prayer, from the counsel [but not the petitioners] because lawyers advice clients of steps to be taken for presentation of petitions. Photographs are not proof of marriage neither is a Court concerned with the marriage in this jurisdiction. The Court is only concerned about the identity of the petitioners in these cases which can be traced back. For these there are Aadhar cards and other official photo identification and passport size photographs of both etc. would be sufficient compliance which are to be placed on record duly authenticated by the petitioners.

11. A copy of this order be circulated in the Bar for information.

(RAJIV NARAIN RAINA)
JUDGE

11.6.2020
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Whether speaking/reasoned :Yes/No
Whether reportable :Yes/No

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