

(2014) 10 P&H CK 0148

High Court Of Punjab And Haryana At Chandigarh

Case No: Letters Patent Appeal No. 1678 of 2014 (OandM)

Rajwinder Kaur

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: Oct. 9, 2014

Acts Referred:

- Constitution of India, 1950 - Article 21

Citation: (2014) 4 RCR(Criminal) 785

Hon'ble Judges: Surya Kant, J; Dr. Shekher Dhawan, J

Bench: Division Bench

Advocate: Farid Singh Virk, Advocate for the Appellant; Rajinder Goyal, Additional A.G,
Advocate for the Respondent

Judgement

Surya Kant, J.

Notice of motion to the official-respondents only at this stage. On our asking, Mr. Rajinder Goyal, learned Additional Advocate General, Punjab, accepts notice on behalf of respondent Nos. 1 to 3.

2. Let three copies of the paper book be supplied to the learned State counsel during the course of day failing which this order shall be automatically recalled and the appeal shall be deemed to have been dismissed for non-prosecution.

3. In view of the nature of order which we propose to pass, there is no need to seek any counter-reply from respondent Nos. 1 to 3 or to serve respondent Nos. 4 to 7 at this stage.

4. Heard learned counsel for the appellants and the learned State counsel.

The appellants are aggrieved by the order dated 09.09.2014 whereby learned Single Judge has dismissed their petition seeking a direction for the protection of their life and liberty on the ground that both of them are major and have solemnized marriage against the wishes of parents and family members of the first appellant.

Learned Single Judge has observed that the alleged marriage is totally invalid due to the fact that the appellants belong to different religions and the second appellant has failed to prove that he had embraced religion of first appellant before such marriage. Learned Single Judge has still granted liberty to the appellants to approach the Senior Superintendent of Police, Patiala, though with a further direction to the said police-authority to enquire into the marriage certificate which, according to learned Single Judge, appears to be false, fabricated and misleading.

5. From the certificates/documents appended by the appellants with the writ petition, it appears that both of them are major, born in the years 1993 and 1994, respectively. Even if the appellants did not perform valid marriage, the question that arises for consideration is whether they can be deprived of the protection of their life and liberty guaranteed under Article 21 of the Constitution?

6. We have no reason to doubt that the fundamental right to life and liberty is so sacrosanct and stands at such a high pedestal that it must be protected even in the absence of an incident like solemnization of a valid marriage between the parties. While the appellants might be required to satisfy an appropriate forum regarding the validity of their marriage but even in the absence of such validation, the State is obligated to protect their life and liberty. We, thus, modify the order passed by the learned Single Judge and dispose of this appeal with a direction to the respondent-police-authorities to ensure that no harm is caused by anyone to the life and liberty of the appellants. The police-authorities shall, however, verify the age of the appellants and if any further remedial action is required to be taken on such verification, the same shall be taken forthwith. Ordered accordingly.

Let a copy of this order be given dasti to learned counsel for the appellants and the learned State counsel.