

208 CRWP-2114-2023

**DARSHAN KAUR AND ANR. V/S STATE OF PUNJAB AND ORS.**

WITH CRWP-11885-2022, CRWP-1295-2023, CRWP-2957-2023, CRWP-1949-2023, CRWP-2785-2023 (O&M), CRWP-3066-2023, CRWP-3051-2023, CRWP-3031-2023, CRWP-2978-2023, CRWP-2941-2023, CRWP-2878-2023, CRWP-2855-2023, CRWP-2843-2023, CRWP-2816-2023, CRWP-2588-2023, CRWP-2576-2023, CRWP-2197-2023, CRWP-3376-2023, CRWP-3389-2023, CRWP-3438-2023, CRWP-3488-2023, CRWP-3451-2023, CRWP-3148-2023, CRWP-3431-2023, CRWP-3512-2023, CRWP-3529-2023, CRWP-3543-2023, CRWP-3595-2023, CRWP-3605-2023.

+211 CRWP-1641-2023

WITH CRWP-1660-2023, CRWP-1676-2023, CRWP-3838-2023, CRWP-3896-2023, CRWP-3897-2023, CRWP-3863-2023, CRWP-3864-2023 (O&M), CRWP-3876-2023, CRWP-3639-2023, CRWP-3990-2023, CRWP-3835-2023, CRWP-3806-2023, CRWP-3222-2023, CRWP-2101-2023, CRWP-3543-2023, CRWP-3595-2023, CRWP-3605-2023, CRWP-3512-2023, 3431-2023, CRWP-3148-2023, CRWP-3529-2023

+207 CRWP-2101-2023

+209 CRWP-3806-2023

+214 CRWP-3955-2023

Present:

**For the petitioner(s):** Mr. Kuldip Singh, Advocate,  
Mr. Harlove Singh Rajput, Advocate,  
Mr. LS Lakhanpal, Advocate,  
Mr. Vijay Singh, Advocate with  
Mr. Ram Pal Kohli, Advocate,  
Mr. GS Sandhu, Advocate,  
Mr. Suraj Bhan Panchal, Advocate,  
Mr. Swapan Shorey, Advocate,  
Mr. Amardeep Singh, Advocate,  
Mr. Naveen Kumar Mehra, Advocate,  
Mr. Lupil Gupta, Advocate,  
Mr. Mohan Singh Rana, Advocate,  
Mr. Kuljit Singh, Advocate,  
Mr. Kuldip Singh, Advocate,  
Mr. Vikram Preet Arora, Advocate,  
Mr. Monty Goyal, Advocate,  
Mr. Nitin Sherwal, Advocate,  
Mr. Sumeet Sagar Maini, Advocate,  
Mr. Sumit Singh Bairagi, Advocate,  
Mr. Raman Kumar, Advocate,

Mr. Karan Dhawan, Advocate,  
Mr. Virender Singh, Advocate,  
Mr. Satveer Singh Badal, Advocate,  
Mr. Abhinav Jain, Advocate,  
Mr. Manpreet Ghuman, Advocate,  
Mr. Vinay Kumar, Advocate,  
Mr. Kunal R Choksi, Advocate,  
Mr. Sahil Goel, Advocate,  
Mr. Chandan Singh, Advocate,  
Mr. Manoj K Sharma, Advocate for  
Mr. Vikramjeet Singh, Advocate,  
Mr. Dinesh Mourya, Advocate,  
Mr. Gursharan Singh Dhillon, Advocate,  
Mr. DPS Joura, Advocate,  
Mr. Amit Kashyap, Advocate,  
Mr. Munish Puri, Advocate,  
Mr. Shadab Ahmad, Advocate,  
Ms. Manpreet, Advocate for  
Mr. Saurabh Bajaj, Advocate,  
Mr. Rhythem Bajaj, Advocate,  
Ms. Simran, Advocate,  
Mr. Ravi Malik, Advocate,  
Mr. Pardeep Kumar Kapila, Advocate.

**For Union of India:** Mr. Satya Pal Jain, ASGI with  
Ms. Saigeeta Srivastava, Advocate.

**For State of Haryana:** Mr. B.R. Mahajan, Advocate General, Haryana  
with Mr. Vikas Bhardwaj, AAG, Haryana, and  
Mr. Pawan Kumar Jhanda, AAG, Haryana.

**For State of Punjab:** Mr. J,S, Arora, DAG, Punjab, and  
Mr. Anmol Singh Sandhu, AAG, Punjab.

**For U.T., Chandigarh:** Mr. P.S. Paul, Addl. PP, UT Chandigarh, and  
Mr. Shashank Bhandari, Addl PP, UT,  
Chandigarh.

**For Private respondents:** Mr. Durga Dutt Sharma, Advocate,  
for respondent No.4 (in CRWP-1295-2023),  
Mr. Pushpinder Singh, Advocate for  
Mr. Salim Malik, Advocate,  
for respondents No.5 to 8  
(in CRWP-1295-2023),  
Mr. T.P.S. Bhatti, Advocate,  
for respondent No.7 (in CRWP-11885-2022),  
Mr. Hardik Ahluwalia, Advocate  
for respondent No.4 (in CRWP-3066-2023).

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1. In this bunch of petitions, i.e. ‘protection petitions’/ ‘criminal writ petitions’, filed under Article 226 of the Constitution of India, the petitioner(s), who are either living in ‘live-in-relationship’ or in some cases even performed marriage again without lawfully obtaining decree of divorce of their first marriage, have sought direction from this Court for ‘protection of their lives and liberty’, which is stated to be at risk at the hands of private respondents, who is/are either spouse from first marriage or their other family members and not accepting the relationship of the petitioner(s) because they (petitioners’) are living adulterous life despite already being married and their matrimonial knot still subsists. In almost all the cases, interests of deserted spouse and children born out of said wedlock has also not been taken care of by the petitioner(s).

2. Another aspect for consideration before this Court in all these petitions is that except pleading of the bald allegation that the lives and liberty of the petitioner(s) is at stake at the hands of private respondents, there is no supporting or corroborating material/evidence, to substantiate such allegation, to *prima facie* make it believable that their lives and liberty are actually at danger at the hands of their own family members. Therefore, this Court has noticed that in such like cases protection petitions are filed in a casual manner only to get ‘seal of the High Court’, by obtaining an order with regard to protection, under Article 226 of the Constitution of India, without there being any such actual stage of threat to the lives and liberty of the petitioner(s).

3. One such case, i.e. CRWP-2114-2023, titled as “Darshan Kaur and another v. State of Punjab and others”, is considered as a lead case, wherein on 03.03.2023, after recording some of the relevant facts, State of Haryana, Union of India as well as Union Territory of Chandigarh, were also impleaded as party in these proceedings, for seeking assistance on the issue because any decision in the matter would affect the society at large and would leave its impact. For ready reference, order dated 03.03.2023, passed by this Court in CRWP-2114-2023, says as under:-

“ *Instant petition has been filed by the petitioners for issuance of directions to official respondents to protect the lives and liberty of the petitioners at the hands of private respondents No.4 to 13.*

*Learned counsel for the petitioners submits that petitioner No.1-Darshan Kaur, aged more than 37 years, is already married to respondent No.4 – Baldev Singh, and two children are born out of the said wedlock, namely Jashandeep Singh, presently aged 14 years, and Paramjit Kaur, aged 10 years, respectively. Both the minor children are stated to be living with petitioner No.1.*

*Petitioner No.2 – Satnam Singh, aged about 36 years, is also married to one Paramjeet Kaur, and out of the said wedlock, two children were born i.e. Jaskaran Singh, now aged about 6 years and Arman Singh, now aged about 4 years. Both the children are stated to be living with their mother Paramjeet Kaur i.e. wife of petitioner No.2.*

*Learned counsel further submits that due to temperamental differences of both the petitioners with their respective spouses, they got separated from them, and thereafter, petitioners started living in a live-in relationship for the last about six months. He further submits that now petitioners are facing constant threat and danger to their lives at the hands of private respondents No.4 to 13, and accordingly, feeling apprehensive, petitioner No.1 – Darshan Kaur, submitted one representation dated 23.02.2023 (Annexure P-3) to Sr. Superintendent of Police (Rural),*

*Distt. Ludhiana (respondent No.4), but no action is being taken thereon, so far.*

*Learned counsel relies upon the order dated 29.09.2021, passed in CRWP-9304-2021 (Monti and another Vs. State of Punjab and others), by the coordinate Bench of this Court, and refers the relevant and concluding part of the said judgment, which says as under:-*

*“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 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, and in such circumstances, the Courts are then required to pass necessary directions for their protection.*

*Keeping in view the above-said 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 17.09.2021 (Annexure P-3) and to assess the threat 8 of 9 CRWP-9304-2021 perception to the petitioners and after considering the same, respondent No. 2 shall take appropriate action in accordance with law.*

*Accordingly, the Criminal Writ Petition stands disposed of with above-said directions.*

*It is, however, clarified that this order shall not debar the State from proceeding against the petitioners, if involved in any other case.”*

*Notice of motion for 17.04.2023.*

*On asking of the Court, Mr. Anmol Singh Sandhu, AAG, Punjab, who is present in Court, accepts notice on behalf of respondents No.1 to 3 (State).*

*Let requisite copies of the complete paper book be supplied to learned State counsel during course of the day.*

*For the purpose of considering the issue involved in present petition, to be a larger one, as has already been noticed with certain observations by this Court, in the case of **Manjot Singh and Ors. v. State of Punjab and Ors.**, (CRWP No.158of 2023, D/d 25.01.2023) Law Finder Doc Id # 2117438, prayer of protection in such circumstances, where the petitioners are already married and having children, is required to be addressed in larger perspective. Issuing directions in general almost in all the protection cases in an ordinary manner, without examining and ascertaining the alleged threat perception of the petitioners, is also an issue to be taken note of.*

*Thus, State of Haryana, Union of India as well as Union Territory, Chandigarh are also ordered to be impleaded as party in the present petition to have their view point on the subject matter.*

*Let notice to newly added respondents i.e. State of Haryana, Union of India as well as U.T. Chandigarh, be also issued for the date fixed.*

*On asking of the Court, Vikas Bhardwaj, AAG, Haryana, who is present in Court, accepts notice on behalf of State of Haryana.*

*On behalf of Union of India, Mr. Satya Pal Jain, Addl. Solicitor General of India, assisted by Saigeeta, Sr. Standing Counsel for UOI, accepts notice on behalf of Union of India, and Mr. Akashdeep Singh, Addl. PP, UT Chandigarh accepts notice on behalf of U.T. Chandigarh.*

*Let requisite copies of the complete paper book be supplied to the learned counsel for newly added respondents i.e. State of Haryana, UOI, and U.T. Chandigarh, during course of the day.*

*Petitioners would be at liberty to produce some evidence to make the Court believe qua the allegations of threat to their lives and liberty.*

*Office is also directed to make necessary additions in the memo of parties.”*

4. Some of the orders have been cited by learned counsel for the petitioner(s), which have been passed by Co-ordinate Benches of this Court, directing to examine the representation for the purpose of providing protection. Thus, it appears that issue is required to be considered by hearing all the stakeholders at length and for the said purpose, some of the issues/questions formulated by this Court are as under:-

- i). Whether, without there being any actual danger or apprehension of threat to life, with some *prima facie* evidence, direction to provide protection/security to the petitioner(s), can be issued, as enshrined under Article 21 of the Constitution of India, and whether it would encourage the trend of extra marital relations in society?
- ii). Whether, protection petition filed by already married persons(s) during the existence of marital life, against his/her spouse, without there being actual danger of life, could be entertained under Article 226 of the Constitution of India or Section 482 Cr.P.C.?
- iii). Whether, issuing direction to protect lives and liberty, which is sought against his/her own spouse, would give handle/liberty to the protection seeker(s) of ignoring/bypassing the existing laws of the land with regard to marriage and divorce and other statutory penal provisions, and also to

ignore future interests of the legally wedded spouse and the children, if any?

- iv). Whether, protection petitions filed by already married person(s) against the interests of his/her deserted spouse and children, could be considered at par with the protection petitions filed by 'run-away couples', seeking protection of their lives and liberty from 'honour killing'?
- v). Whether, issuance of direction to protect already married person(s), would amount to affixing of seal of the Court to the illegal and unethical relationship of such person(s), against the social framework of the country?
- vi). Whether, issuing protection direction in the petition(s) of already married person(s) will disturb the social fabric of the country; complicate the social structure & status of future generation; and increase manifold & unending litigation because of absence of any law to deal with the same?

5. Adjourned to 12.05.2023, for further consideration.

6. A photocopy of this order be placed on the files of other connected matters.

(SANJAY VASHISTH)  
JUDGE

April 28, 2023  
Pkapoor