

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 14th OF MARCH, 2024

WRIT PETITION No. 3857 of 2024

BETWEEN:-

.....PETITIONER

(SHRI APOORV JOSHI, ADVOCATE)

AND

- THE STATE OF MADHYA PRADESH**
SECRETARY MINISTRY OF HOME
1. (POLICE) VALLABH BHAWAN BHOPAL
(MADHYA PRADESH)
SUPERINTENDENT OF POLICE P.S.
2. SANAWAD DIST. KHARGONE (MADHYA
PRADESH)
3. STATION HOUSE OFFICER P.S. SANAWAD
DIST. KHARGONE (MADHYA PRADESH)

4.

5.

6.

(MADHYA PRADESH)

.....RESPONDENTS

SHRI AMAY BAJAJ, GOVT. ADVOCATE

This petition coming on for order this day, the court passed the following:

ORDER

1. This petition has been filed by the petitioners both of whom are aged 19 years seeking the following relief:-

“(1) That the respondents no.2 and 3 may kindly be directed to give proper protection and help against the respondent no.4 to 6 and their associates.

(2) That the respondent no.2 and 3 be directed to punish respondent n.4 to 6 in accordance with law.

(3) That the petitioners be given full protection and security and false case should not be registered against the petitioner no.2.

(4) Pass any other appropriate order as may be deemed fit just & expedient in the interest of justice.”

2. The grievance of the petitioners are that they are residing together against the wishes of their parents, but are apprehending that some untoward action may be taken by the parents of petitioner no.1, thus, protection in this regard has been sought.

3. In support of his contention that protection can be granted to live in partner also, counsel for the petitioners has drawn attention of this Court to a decision rendered by the Supreme Court in the

case of **Nandakumar v. State of Kerala reported as (2018) 16 SCC 602**, in which in a habeas corpus petition, the Supreme Court has taken note of the relationship between the persons involved, and opined that since both the persons were major, and even if they are not competent to enter into wedlock, they have a right to live together and even outside the wedlock. Thus, it is submitted that the present petitioners, who are entitled to reside together may be protected from any violence by any person or their parents.

4. Shri Amay Bajaj, learned counsel for the respondent/State on the other hand has opposed the prayer, and submitted that petitioner no.2 boy is only 19 years old, and has not even completed 21 years which is marriageable age, and thus, it is submitted that no case for interference is made out. It is also submitted that if such protection is granted, it would not be in the larger interest of the society, and would promote promiscuousness in the society.

5. Heard. Having considered the rival submissions, and on perusal of the documents filed on record, as also the aforesaid decision of the Hon'ble Supreme court, in para 10 of which it has been observed as under:-

“10. We need not go into this aspect in detail. For our purposes, it is sufficient to note that both Appellant 1 and Thushara are major. Even if they were not competent to enter into wedlock (which position itself is disputed), they have right to live together even outside wedlock. It would not be out of place to mention that “live-in relationship” is now recognised by the legislature itself which has found its place under the provisions of the Protection of Women from Domestic Violence Act, 2005. “

6. In view of the aforesaid, this Court is inclined to allow the present petition as despite the fact that both the petitioners are 19 years old only, and the petitioner no.2 has not even completed 21 years, since he is a major, he is entitled to reside as per his own will, and if he so decides, his choice needs to be protected from external forces.

7. Having held so, this Court must record its concern on the choices, the youngsters are making these days. Although there is much to ponder over this subject but it must be remembered that even though certain rights have been conferred by the Constitution,

it is not necessary to enjoy, and enforce them as well. India is not a country where the State provides any allowance to the unemployed and the uneducated ones, thus, if you are not dependent on your parents, you have to earn your own and your partner's livelihood and this would naturally obviate possibility of going to a school or a college, and if you get into this struggle of life at an early age by choice, not only your chances of enjoying the other opportunities of life are drastically affected but your acceptance in the society is also reduced, and it is far more difficult for a girl who can also become pregnant at an early age, leading to further complications in her life. Thus, discretion is advised while opting for such choices and enforcing such rights, as it is one thing to have the rights and another to enforce them.

8. With the aforesaid observations, the petition stands allowed, and respondents are directed to provide such protection to the petitioners as required. Counsel for the petitioner is also directed to apprise the petitioners about the concerns expressed by this court.

9. It is directed that a copy of this order be supplied to the office of the Advocate General so that this order may be communicated to

the respondent no.2/Superintendent of Police, Khargone for prompt compliance of the order.

10. The concerned SHO, Police Station Sanawad, District Khargone/respondent no.3 is also directed to share his/her mobile number with the petitioners so that they can reach him/her at any time, in case of any emergency.

11. Accordingly, **the petition stands allowed.** All the pending interlocutory application, if any, shall stand disposed of.

(SUBODH ABHYANKAR)
JUDGE

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