



2026:AHC:39447

A.F.R.

Judgment Reserved On 03.12.2025

Judgment Delivered on 23.02.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD**WRIT - C No. - 41127 of 2025**

Noori And Another

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Akhilesh Kumar Yadav, Shlok Jaiswal, Uday Bhan Singh
Counsel for Respondent(s)	:	C.S.C.

Along with :

- Writ - C No. 36781 of 2025:**
Kumari Nisha and another
Versus
State of U.P. and 5 others
- Writ - C No. 37540 of 2025:**
Smt. Rahnuma Bano and another
Versus
State of U.P. and 3 others
- Writ - C No. 40461 of 2025:**
Shivani and another
Versus
State of U.P. and 3 others
- Writ - C No. 41206 of 2025:**
Hurn and another
Versus
State of U.P. and 2 others
- Writ - C No. 39864 of 2025:**
Naajreen Nisha and another
Versus
State of U.P. and 3 others
- Writ - C No. 35244 of 2025:**
Riya and another
Versus
State of U.P. and 3 others
- Writ - C No. 37012 of 2025:**
Komal and another

- Versus
- State of U.P. and 3 others
8. **Writ - C No. 38139 of 2025:**
Shilpi and another
- Versus
- State of U.P. and 3 others
9. **Writ - C No. 40599 of 2025:**
Smt. Khushboo Yadav and another
- Versus
- State of U.P. and 3 others
10. **Writ - C No. 42295 of 2025:**
Ankita Kumari and another
- Versus
- State of U.P. and 3 others
11. **Writ - C No. 36294 of 2025:**
Shama Bano and another
- Versus
- State of U.P. and 2 others
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Court No. - 81

HON'BLE VIVEK KUMAR SINGH, J.

1. Heard Sri Shwetashwa Agarwal, learned Senior Counsel appeared as Amicus Curiae and assisted by Sri Yashraj Verma, Sri Dinkar Lal, Sri Sirajuddin, learned counsel appearing on behalf of the petitioners, Sri Ashwani Kumar Tripathi & Sri Prabhash Kumar Tiwari, learned Additional Chief Standing Counsel alongwith Sri Yogesh Kumar, Sri Pramit Kumar Pal, Sri Suresh Babu, Sri Arvind Kumar Singh, Sri Vijay Kumar Srivastava, and Sri Phool Chand, learned Standing Counsel for the State-respondents, in all the writ petitions.

2. By means of the present writ petition, the petitioners have prayed for a writ in the nature of mandamus directing the respondents not to interfere in their peaceful life and liberty and also for a direction to provide protection.

3. A large number of petitions are being filed in this Court wherein the petitioners have decided to stay together in an interfaith live-in relationship and they claim that they have an apprehension of life threat from the private respondents. The Police of concerned Districts have been approached by them, but no heed was paid, therefore, they have approached this Court by way of filing these writ petitions. In all the writ

petitions, the petitioners have prayed that the Police of their District be directed to provide protection from private respondents as well as other family members/relatives/associates of the private respondents from causing any harm to the petitioners.

4. Since controversy involved in all the writ petitions is similar, hence they are being decided by a common judgment.

5. This Court, taking note of the involvement of the important issue in the matter, requested Mr. Shwetashwa Agarwal, learned Senior Advocate, to assist the Court, as amicus curiae, which was accepted by the learned Senior Counsel and he argued the matter with the assistance of learned counsels named above.

6. Learned Senior Counsel argued that Article 21 of the Constitution of India grants the personal choice of whether to marry or not and be in a live-in relationship. A major person has a right to marry a person of his/her choice or to live with his/her partner. They have a right to live out of the wedlock.

7. The learned Senior Counsel citing several judgments of the Supreme Court as well as of the High Courts, stated that a live-in relationship between consenting adults of heterogenic sex does not amount to any offence. It is also submitted that Article 14 of the Constitution of India guarantees equal protection of law within the territory of India and Article 21 protects the right to life and personal liberty. In these cases, the petitioners, claimed to be in an interfaith live-in relationship, have attained the age of majority which is a legal age to enter into any relationship with protection, according to their prayer.

8. On the other hand, learned Additional Chief Standing Counsel submitted that the petitioners are interfaith couples and they have not complied with the provisions of Section 8 and 9 of the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021 (hereinafter referred to as "the Act, 2021"). No application for conversion has been moved though the Act came into force on 27.11.2020. It is also submitted that the act of the petitioners is unlawful and illegal and the same cannot be protected in view of Section 3 and 5 of the Act, 2021. It is further

submitted that the apprehensions of the petitioners are vague, speculative and unsupported by any contemporaneous complaint to local police authorities. There is no real and immediate threat to the life or liberty of the petitioners. No specific time, date or incident has been mentioned in the application allegedly moved before the police authorities. The State's obligations to protect arises only when no unlawful act has been done by the petitioners and the protection by the police authorities may be granted only when there exists a credible and immediate threat.

9. It is further submitted by the learned Additional Chief Standing Counsel that the case laws relied upon by the learned Senior Counsel for the petitioners will not come to the aid of the petitioners since these judgments were passed by the Hon'ble Apex Court prior to the promulgation of the Act, 2021, which came into force on 27.11.2020.

10. Learned Additional Chief Standing Counsel has relied upon judgment of the Division Bench of this Court in the case of **Kiran Rawat and Another vs. State of U.P. Thru. Secy. Home, Lko and Others** reported in **2023 SCC Online ALL 323**, to contend that a Muslim cannot reside in a live-in relationship as per their personal laws. He further relied upon the judgment of the Division Bench of this Court in the case of **Asha Devi and Another vs. State of U.P. and Others**, passed in Writ C No. 18743 of 2020, and opposed the petition.

11. In view of the order proposed to be passed, there is no need to issue notice to the private respondents and the petition is being disposed of finally with the consent of the learned counsels appearing for the parties.

12. It is submitted by the learned Senior Counsel for the petitioners that they are major and are residing in a live-in relationship and this particular fact has not been disputed by the learned Additional Chief Standing Counsel for the State of U.P. The petitioners belong to different religions. This Court is dealing with 12 writ petitions, wherein 7 girls are Muslims and they are residing with Hindu boys, whereas five girls are Hindu and they are residing with Muslim boys. It is further submitted that in all the petitions, it is stated that the petitioners fell in love with each other and they have decided to reside in a live-in relationship, but the private

respondents are interfering in their peaceful living. The petitioners approached the police authorities, but no action was taken by the police authorities, therefore, they preferred the present writ petitions.

13. The learned Senior Counsel for the petitioners has placed reliance on the judgment passed by a co-ordinate Bench of this Court in the case of **Razia and Another vs. State of U.P. and Others**, passed in Writ-C No. 27338 of 2023, in which the co-ordinate Bench of this Court relying upon various judgments, granted protection to the couple who were residing in an interfaith live-in relationship.

14. The learned Senior Counsel for the petitioners further submitted that in the case of **Razia (supra)** also, one of the party was Muslim by faith and the other party was Hindu by religion and in the identical situation, the Court has granted protection in the case of **Razia (supra)**.

15. Opposing the arguments advanced by the learned Senior Counsel for the petitioners, learned Additional Chief Standing Counsel for the State of U.P., placed reliance upon judgment of **Kiran Rawat (supra)** and argued that a Muslim cannot reside in a live-in relationship prior to his/her marriage.

16. Learned Senior counsel for the petitioners has relied upon the law laid down by Supreme Court in the case of **Lata Singh Vs. State of Uttar Pradesh and another (2006) 5 SCC 475**, to contend that once a person has attained majority, he/she can live with whomsoever they like and their choice cannot be interfered with by anyone. It would be apposite to reproduce the relevant part of the judgment of Supreme Court in the case of Lata Singh (supra) for convenience and ready reference:

"17. The caste system is a curse on the nation and the sooner it is destroyed the better. In fact, it is dividing the nation at a time when we have to be united to face the challenges before the nation unitedly. Hence, inter-caste marriages are in fact in the national interest as they will result in destroying the caste system. However, disturbing news are coming from several parts of the country that young men and women who undergo inter-caste marriage, are threatened with violence, or violence is actually committed on them. In our opinion, such acts of violence or

threats or harassment are wholly illegal and those who commit them must be severely punished. This is a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-caste or inter-religious marriage the maximum they can do is that they can cut off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage. We, therefore, direct that the administration/police authorities throughout the country will see to it that if any boy or girl who is a major undergoes inter-caste or inter-religious marriage with a woman or man who is a major, the couple are not harassed by any one nor subjected to threats or acts of violence, and any one who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law. We sometimes hear of 'honour' killings of such persons who undergo inter-caste or inter-religious marriage of their own free will. There is nothing honourable in such killings, and in fact they are nothing but barbaric and shameful acts of murder committed by brutal, feudal minded persons who deserve harsh punishment. Only in this way can we stamp out such acts of barbarism."

17. To contend the freedom of an individual who has attained the age of majority to live with anyone whom he/she likes, reliance is also placed by the learned Senior counsel for the petitioners on the judgment of the Supreme Court in the case of **Shafin Jahan Vs. Asokan K.M. and Ors. reported in (2018) 16 SCC 368**, wherein the Supreme Court emphasized due importance to the right of choice of an adult person, which the Constitution accords to an adult person. The Hon'ble Apex Court has held that right to marry a person of own choice is integral part of Article 21 of the Constitution of India. There is a complete freedom to choose life partner of any faith, belief, religion, caste etc. Neither State, nor law, nor society can dictate the choice of partner. The right cannot be taken away except through law which is substantially and procedurally fair, just and reasonable. The relevant paragraphs of **Shafin Jahan (supra)** are

reproduced as under:

"26. In Ummu Sabeena vs. State of Kerala and Others, (2011) 10 SCC 781, the Court further ruled that the principle of habeas corpus has been incorporated in our constitutional law and in a democratic republic like India where judges function under a written Constitution and which has a chapter of fundamental rights to protect individual liberty, the judges owe a duty to safeguard the liberty not only of the citizens but also of all persons within the territory of India; and the same exercise of power can be done in the most effective manner by issuing a writ of habeas corpus.

27 . Thus, the pivotal purpose of the said writ is to see that no one is deprived of his/her liberty without sanction of law. It is the primary duty of the State to see that the said right is not sullied in any manner whatsoever and its sanctity is not affected by any kind of subterfuge. The role of the Court is to see that the detenue is produced before it, find out about his/her independent choice and see to it that the person is released from illegal restraint. The issue will be a different one when the detention is not illegal. What is seminal is to remember that the song of liberty is sung with sincerity and the choice of an individual is appositely respected and conferred its esteemed status as the Constitution guarantees. It is so as the expression of choice is a fundamental right Under Articles 19 and 21 of the Constitution, if the said choice does not transgress any valid legal framework. Once that aspect is clear, the enquiry and determination have to come to an end.

52. It is obligatory to state here that expression of choice in accord with law is acceptance of individual identity. Curtailment of that expression and the ultimate action emanating therefrom on the conceptual structuralism of obeisance to the societal will destroy the individualistic entity of a person. The social values and morals have their space but they are not above the constitutionally guaranteed freedom. The said freedom is both a constitutional and a human right. Deprivation of that freedom which is ingrained in choice on the plea of faith is impermissible. Faith of a person is intrinsic to his/he meaningful existence. To have the freedom of faith is essential to his/her autonomy; and it strengthens the core norms of the Constitution. Choosing a faith is the substratum of

individuality and sans it, the right of choice becomes a shadow. It has to be remembered that the realisation of a right is more important than the conferment of the right. Such actualisation indeed ostracises any kind of societal notoriety and keeps at bay the patriarchal supremacy. It is so because the individualistic faith and expression of choice are fundamental for the fructification of the right. Thus, we would like to call it indispensable preliminary condition.

53 . Non-acceptance of her choice would simply mean creating discomfort to the constitutional right by a Constitutional Court which is meant to be the protector of fundamental rights. Such a situation cannot remotely be conceived. The duty of the Court is to uphold the right and not to abridge the sphere of the right unless there is a valid authority of law. Sans lawful sanction, the centripodal value of liberty should allow an individual to write his/her script. The individual signature is the insignia of the concept.

54. In the case at hand, the father in his own stand and perception may feel that there has been enormous transgression of his right to protect the interest of his daughter but his view point or position cannot be allowed to curtail the fundamental rights of his daughter who, out of her own volition, married the Appellant. Therefore, the High Court has completely erred by taking upon itself the burden of annulling the marriage between the Appellant and the Respondent No. 9 when both stood embedded to their vow of matrimony."

18. Learned Senior counsel for the petitioner has also placed reliance on the judgment of the Supreme Court in the case of **Nandkumar and another Vs. State of Kerala reported at (2018) 16 SCC 620** to contend that the live in relationship is now recognized by the legislature itself and it has found its place under the provisions of Protection of Women from Domestic Violence Act.

19. Reliance is also placed by the learned Senior counsel for the petitioner on the decision of the Division Bench of this Court in the case of **Kamini Devi Vs. State of U.P Writ C No. 11108 of 2020**, to contend that the live in relationship is no offence and the petitioners, if they are major, are

legally entitled to live in live-in relationship.

20. In reply, it is stated by the learned counsel for the State that the judgment of the Hon'ble Supreme Court, relied upon by the learned Senior Counsel/amicus curiae, though grant the fundamental right of choice of an adult person while marrying within the same religion, however, these judgments will not come to the aid of the petitioners after the promulgation of the Act, 2021, which came into force on 27.11.2020. All the aforementioned judgments relied upon by the learned Senior Counsel were passed prior to the promulgation of the Act, 2021 and in none of the judgment, the Act of 2021 was considered.

21. According to the State Counsel, as per the Act, 2021, one cannot freely move with another except in accordance with the procedure prescribed in Section 8 and 9 of the Act, 2021, or by marriage under the Special Marriage Act. In the present cases, none of the petitioners claimed that they have moved application under Section 8 and 9 of the Act, 2021, rather they stated that they are residing in a live-in relationship. No one claimed that any application under the Special Marriage Act was preferred by them. Therefore, they have violated the law and no relief can be granted to a wrong doer.

22. In rebuttal, it is stated by learned Senior Counsel/amicus curiae, that the petitioners herein are only living in a relationship and as such, compliance of Section 8 and 9 of the Act, 2021, is not necessary for the petitioners. If a person intends to convert his/her religion, only then he/she will give a declaration in terms of Section 8 and 9 of the Act, 2021.

23. The above argument was strongly opposed by the learned Additional Chief Standing Counsel for the State of U.P. and he referred Section 3 and 5 of the Act, 2021 and stated that for the purpose of living together in a live-in relationship, the Act, 2021, will apply and whoever contravenes the provisions of Section 3, will be punished with imprisonment for a term which shall not be less than three years but which may extend to ten years and shall also be liable to fine which shall not be less than Rs. 50,000/-. Reference may be made to Section 3 and 5 of the Act, 2021 which run as under:

"Section 3. Prohibition of conversion from one religion to another religion by misrepresentation, force, fraud, undue influence, coercion, allurement.-

(1) No person shall convert or attempt to convert, either directly or otherwise, any other person from one religion to another by use or practice of misrepresentation, force, undue influence, coercion, allurement or by any fraudulent means. No person shall abet, convince or conspire such conversion.

Explanation:- For the purposes of this sub-section conversion by solemnization of marriage or relationship in the nature of marriage on account of factors enumerated in this sub-section shall be deemed included.

(2) If any person re-converts to his immediate previous religion, the same shall not be deemed to be a conversion under this Act.

Explanation:- For the purposes of this sub-section immediate previous religion means the religion in which the person had faith, belief or was practiced by the person voluntarily and freely.

Section 5. Punishment for contravention of provisions of section 3.-(1)

Whoever contravenes the provisions of section 3 shall, without prejudice to any civil liability, be punished with imprisonment for a term, which shall not be less than three years but which may extend to ten years and shall also be liable to fine which shall not be less than fifty thousand rupees:

Provided that whoever contravenes the provisions of section 3 in respect of a minor, a disabled or mentally challenged person, a woman or a person belonging to the Scheduled Castes or the Scheduled Tribes, shall be punished with rigorous imprisonment for a term which shall not be less than five years but which may extend to fourteen years and shall also be liable to fine which shall not be less than one lakh rupees:

Provided further that whoever contravenes the provisions of section 3 in respect of mass conversion of religion shall be punished with rigorous imprisonment for a term which shall not be less than seven years but

which may extend to fourteen years and shall also be liable to fine which shall not be less than one lakh rupees.

(2) Whoever receives money from any foreign or illegal institutions in connection with unlawful religious conversion shall be punished with rigorous imprisonment for a term which shall not be less than seven years but which may extend to fourteen years and shall also be liable to fine which shall not be less than ten lakh rupees.

(3) Wherever, with the intent to convert, puts any person in fear of his life or property, assaults or uses force or marries or promises to marry or induces or conspires for the same, or traffics a minor, a woman or a person by enticing them or otherwise selling them, or abets, attempts or conspires in this behalf, shall be punished with rigorous imprisonment for a term which shall not less than twenty years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine :

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim :

Provided further that any fine imposed under this section shall be paid to the victim.

(4) The Court shall also approve appropriate compensation payable by the accused to the victim of the said conversion, which may extend to five lakh rupees, in addition to the fine.

(5) Whoever, having previously been convicted of an offence under this Act, is again convicted of an offence punishable under this Act, shall, for every such subsequent offence, be liable to a punishment not exceeding twice the punishment provided in that behalf under this Act."

24. By referring the aforesaid provision, the learned Additional Chief Standing Counsel further stated that the explanation of Section 3 of the Act, 2021, goes to show that conversion is not only required for the purpose of marriage, but it is also required in all relationship in the nature of marriage, therefore, the Act, 2021, will also apply to relationship in the

nature of marriage or staying together in a live-in relationship. None of the petitioners have applied for conversion as per provisions of Section 8 and 9 of the Act, 2021, hence the relationship of the petitioners cannot be protected in contraventions of the provisions of law. Such residing of the petitioners in relationship like marriage cannot get approval by the Court of law.

25. I have heard submissions of both the sides and perused the record.

26. In the case of **Kiran Rawat (supra)**, the Division Bench of this Court has observed that no recognition can be given to sex outside the marriage in the Muslim Law. The relevant paragraph no. 21 of the **Kiran Rawat (supra)** is reproduced hereunder.

"21. However, in Muslim law no recognition can be given to sex outside marriage. "Zina" which has been defined as any sexual intercourse except that between husband and wife includes both extramarital sex and premarital sex and is often translated as fornication in English. Such premarital sex is not permissible in Islam. In fact any sexual, lustful, affectionate acts such as kissing, touching, staring etc. are "Haram" in Islam before marriage because these are considered parts of "Zina" which may lead to actual "Zina" itself. The punishment for such offence according to Quran (chapter 24) is hundred lashes for the unmarried male and female who commit fornication together with the punishment prescribed by the "Sunnah" for the married male and female that is stoning to death."

27. In the context of **Kiran Rawat's (supra)** judgment, there is no provisions in the Indian Penal Code or any other Act to punish a man or woman with **lashes or stoning** to death. Therefore, a person, cannot be punished according to Muslim Law/Islam, as quoted in **Kiran Rawat's (supra)** judgment.

28. In the opinion of this Court, for attracting the offence under Sections 3 and 5 of the Act, 2021, conversion from one religion to another religion is necessary and that conversion should be by practice of misrepresentation, force, undue influence, coercion or allurement or by any fraudulent means or by marriage or by relationship in the nature of marriage. Sub-

section (1) of Section 3 mandates that no person shall convert or attempt to convert any other person from one religion to another religion. "Conversion" has been defined under Section 2(c) of the Act, 2021, which is reproduced hereunder:

"2(c). "Conversion" means renouncing one's own religion and adopting another religion."

29. In the present batch of cases, no petitioner claimed that any attempt, in any manner, was made by other petitioner for conversion of his/her religion. It is only claimed by the petitioners that they are living together in a live-in relationship and following their religion. Section 4 of the Act, 2021, gives power to any person to lodge F.I.R./complaint relating to the contravention of the provisions of the Act, 2021. In these cases, no F.I.R. or complaint has been lodged against any person that religion of one petitioner was converted or attempted to be converted. Therefore, it cannot be said under the facts and circumstances of these cases that any act in contravention of the provision of the Act, 2021, was made by the petitioners and a punishable offence was done by them.

30. Even the interfaith marriage, *per se*, is not prohibited under the Act, 2021. Provision has also been made under the Act, 2021, and according to which, if a person wishes to change/convert his or her religion, he/she is expected to follow the procedure prescribed under Section 8 & 9 of the Act, 2021. But one cannot be forced to convert his or her religion for the purposes of marriage or for living together in a live-in relationship. For ready reference, Sections 8 & 9 of the Act, 2021, are reproduced hereunder:

"Section 8. Declaration before conversion of religion and pre-report about conversion (1) One who desires to convert his/her religion, shall give a declaration in the form prescribed in Schedule-I at least sixty days in advance, to the District Magistrate or the Additional District Magistrate specially authorized by the District Magistrate, that he wishes to convert his/her religion on his/her own and with his/her free consent and without any force, coercion, undue influence or allurement.

(2) The religious convertor, who performs conversion ceremony for

converting any person of one religion to another religion, shall give one month's advance notice in the form prescribed in Schedule-II of such conversion, to the District Magistrate or any other officer not below the rank of Additional District Magistrate appointed for that purpose by the District Magistrate of the district where such ceremony is proposed to be performed.

(3) The District Magistrate, after receiving the information under sub-section (1) and (2), shall get an enquiry conducted through police with regard to real intention, purpose and cause of the proposed religious conversion.

(4) Contravention of sub-section (1) and/or sub-section (2) shall have the effect of rendering the proposed conversion, illegal and void.

(5) Whoever contravenes the provisions of sub-section (1) shall be punished with imprisonment for a term which shall not be less than six months but may extend to three years and shall also be liable to fine which shall not be less than rupees ten thousand.

(6) Whoever contravenes the provisions of sub-section (2) shall be punished with imprisonment for a term which shall not be less than one year but may extend to five years and shall also be liable to fine which shall not be less than rupees twenty five thousand.

Section 9. Declaration post conversion of religion *(1) The converted person shall send a declaration in the form prescribed in Schedule-III within sixty days of the date of conversion, to the District Magistrate of the District in which converted person resides ordinarily.*

(2) The District Magistrate shall exhibit a copy of the declaration on the notice board of the office till the date of confirmation.

(3) The said declaration shall contain the requisite details, i.e., the particulars of the convert such as date of birth, permanent address, and the present place of residence, father's/husband's name, the religion to which the convert originally belonged and the religion to which he has converted, the date and place of conversion and nature of process gone through for conversion.

(4) The converted individual shall appear before the District Magistrate within 21 days from the date of sending/filing the declaration to establish her/his identity and confirm the contents of the declaration.

(5) The District Magistrate shall record the factum of declaration and confirmation in a register maintained for this purpose. If any objections are notified, he may simply record them, i.e., the name and particulars of objectors and the nature of objection.

(6) Certified copies of declaration, confirmation and the extracts from the register shall be furnished to the parties, who gave the declaration to his/her authorized legal representative on his/her request.

(7) The contravention of sub-sections 1 to 4 shall have the effect of rendering the said conversion illegal and void."

31. This Court does not see the petitioners herein as Hindu and Muslim, rather as two grown up individuals who out of their own free will and choice are living together peacefully and happily for a considerable time. The Courts and the Constitutional Courts in particular are enjoined to uphold the life and liberty of an individual guaranteed under Article 21 of the Constitution of India. Right to live with a person of his/her choice, irrespective of religion professed by them, is intrinsic to right to life and personal liberty. Interference in a personal relationship, would constitute a serious encroachment into the right to freedom of choice of the two individuals. This Court fails to understand that if the law permits two persons even of the same sex to live together peacefully then neither any individual nor a family nor even State can have objection to heterosexual relationship of two major individuals who out of their own free will are living together. Decision of an individual who is of the age of majority, to live with an individual of his/her choice is strictly a right of an individual and when this right is infringed it would constitute breach of his/her fundamental right to life and personal liberty as it includes right to freedom of choice, to choose a partner and right to live with dignity as enshrined in Article 21 of the Constitution of India.

32. In a more recent decision of a three judge Bench in **Soni Gerry v Gerry Douglas, (2018) 2 SCC 197**, the Hon'ble Supreme Court dealt

with a case where the daughter of the appellant and respondent, who was a major had expressed a desire to reside in Kuwait, where she was pursuing her education, with her father. This Court observed thus:

"9. She has, without any hesitation, clearly stated that she intends to go back to Kuwait to pursue her career. In such a situation, we are of the considered opinion that as a major, she is entitled to exercise her choice and freedom and the Court cannot get into the aspect whether she has been forced by the father or not. There may be ample reasons on her behalf to go back to her father in Kuwait, but we are not concerned with her reasons. What she has stated before the Court, that alone matters and that is the heart of the reasoning for this Court, which keeps all controversies at bay.

10. It needs no special emphasis to state that attaining the age of majority in an individual's life has its own significance. She/He is entitled to make her/his choice. The courts cannot, as long as the choice remains, assume the role of parens patriae. The daughter is entitled to enjoy her freedom as the law permits and the court should not assume the role of a super guardian being moved by any kind of sentiment of the mother or the egotism of the father. We say so without any reservation."

33. A perusal of the aforesaid judgment manifests that the Apex Court has respected the liberty of an individual who has attained the age of majority.

34. The Apex Court in **Shakti Vahini Vs. Union of India (2018) 7 SCC 192** came down heavily on the perpetrators of "honour killings", which the Court found not only horrific and barbaric but also interfering with the right to choose a life partner and the dignity of an individual. The Apex Court held as under:-

"44. The concept of liberty has to be weighed and tested on the touchstone of constitutional sensitivity, protection and the values it stands for. It is the obligation of the Constitutional Courts as the sentinel on qui vive to zealously guard the right to liberty of an individual as the dignified existence of an individual has an inseparable association with liberty. Without sustenance of liberty, subject to constitutionally valid

provisions of law, the life of a person is comparable to the living dead having to endure cruelty and torture without protest and tolerate imposition of thoughts and ideas without a voice to dissent or record a disagreement. The fundamental feature of dignified existence is to assert for dignity that has the spark of divinity and the realization of choice within the parameters of law without any kind of subjugation. The purpose of laying stress on the concepts of individual dignity and choice within the framework of liberty is of paramount importance. We may clearly and emphatically state that life and liberty sans dignity and choice is a phenomenon that allows hollowness to enter into the constitutional recognition of identity of a person.

(emphasis supplied)

45. The choice of an individual is an inextricable part of dignity, for dignity cannot be thought of where there is erosion of choice. True it is, the same is bound by the principle of constitutional limitation but in the absence of such limitation, none, we mean, no one shall be permitted to interfere in the fructification of the said choice. If the right to express one's own choice is obstructed, it would be extremely difficult to think of dignity in its sanctified completeness. When two adults marry out of their volition, they choose their path; they consummate their relationship; they feel that it is their goal and they have the right to do so. And it can unequivocally be stated that they have the right and any infringement of the said right is a constitutional violation... "

35. Right to choose a partner irrespective of caste, creed or religion, is inhered under right to life and personal liberty, an integral part of the Fundamental Right under Article 21 of the Constitution of India. The Apex Court in **KS Puttaswamy vs Union of India (2017) 10 SCC 1** while deciding the issue of right to privacy, held as under:-

298. Privacy of the individual is an essential aspect of dignity. Dignity has both an intrinsic and instrumental value. As an intrinsic value, human dignity is an entitlement or a constitutionally protected interest in itself. In its instrumental facet, dignity and freedom are inseparably intertwined, each being a facilitative tool to achieve the other. The ability of the individual to protect a zone of privacy enables the realization of the

full value of life and liberty. Liberty has a broader meaning of which privacy is a subset. All liberties may not be exercised in privacy. Yet others can be fulfilled only within a private space. Privacy enables the individual to retain the autonomy of the body and mind. The autonomy of the individual is the ability to make decisions on vital matters of concern to life. Privacy has not been couched as an independent fundamental right. But that does not detract from the constitutional protection afforded to it, once the true nature of privacy and its relationship with those fundamental rights which are expressly protected is understood. Privacy lies across the spectrum of protected freedoms. The guarantee of equality is a guarantee against arbitrary state action. It prevents the state from discriminating between individuals. The destruction by the state of a sanctified personal space whether of the body or of the mind is violative of the guarantee against arbitrary state action. Privacy of the body entitles an individual to the integrity of the physical aspects of personhood. The intersection between one's mental integrity and privacy entitles the individual to freedom of thought, the freedom to believe in what is right, and the freedom of self-determination. When these guarantees intersect with gender, they create a private space which protects all those elements which are crucial to gender identity. The family, marriage, procreation and sexual orientation are all integral to the dignity of the individual. Above all, the privacy of the individual recognises an inviolable right to determine how freedom shall be exercised. An individual may perceive that the best form of expression is to remain silent. Silence postulates a realm of privacy. An artist finds reflection of the soul in a creative endeavour. A writer expresses the outcome of a process of thought. A musician contemplates upon notes which musically lead to silence. The silence, which lies within, reflects on the ability to choose how to convey thoughts and ideas or interact with others. These are crucial aspects of personhood. The freedoms Under Article 19 can be fulfilled where the individual is entitled to decide upon his or her preferences. Read in conjunction with Article 21, liberty enables the individual to have a choice of preferences on various facets of life including what and how one will eat, the way one will dress, the faith one will espouse and a myriad other matters on which autonomy and self-determination require a choice to be made within the privacy of the mind.

The constitutional right to the freedom of religion Under Article 25 has implicit within it the ability to choose a faith and the freedom to express or not express those choices to the world. These are some illustrations of the manner in which privacy facilitates freedom and is intrinsic to the exercise of liberty. The Constitution does not contain a separate Article telling us that privacy has been declared to be a fundamental right. Nor have we tagged the provisions of Part III with an alpha suffixed right of privacy: this is not an act of judicial redrafting. Dignity cannot exist without privacy. Both reside within the inalienable values of life, liberty and freedom which the Constitution has recognised. Privacy is the ultimate expression of the sanctity of the individual. It is a constitutional value which straddles across the spectrum of fundamental rights and protects for the individual a zone of choice and self-determination.

(emphasis supplied)

299. Privacy represents the core of the human personality and recognises the ability of each individual to make choices and to take decisions governing matters intimate and personal. Yet, it is necessary to acknowledge that individuals live in communities and work in communities. Their personalities affect and, in turn are shaped by their social environment. The individual is not a hermit. The lives of individuals are as much a social phenomenon. In their interactions with others, individuals are constantly engaged in behavioural patterns and in relationships impacting on the rest of society. Equally, the life of the individual is being consistently shaped by cultural and social values imbibed from living in the community.

(emphasis supplied)

323. Privacy includes at its core the preservation of personal intimacies, the sanctity of family life, marriage, procreation, the home and sexual orientation. Privacy also connotes a right to be left alone. Privacy safeguards individual autonomy and recognises the ability of the individual to control vital aspects of his or her life. Personal choices governing a way of life are intrinsic to privacy. Privacy protects heterogeneity and recognises the plurality and diversity of our culture. While the legitimate expectation of privacy may vary from the intimate zone to the private zone and from the private to the public arenas, it is

important to underscore that privacy is not lost or surrendered merely because the individual is in a public place. Privacy attaches to the person since it is an essential facet of the dignity of the human being;

(emphasis supplied)

36. An individual on attaining majority is statutorily conferred a right to choose a partner, which if denied would not only affect his/her human right but also his/her right to life and personal liberty, guaranteed under Article 21 of the Constitution of India. I say so for the reason that irrespective of the conversion being under clout, the mere fact that the couple were living together, the alleged relationship can very well be classified as a relationship in the nature of marriage distinct from the relationship arising out of marriage, in view of the provisions of Protection of Women from Domestic Violence Act, 2005. To disregard the choice of a person who is of the age of majority would not only be antithetic to the freedom of choice of a grown up individual but would also be a threat to the concept of unity in diversity.

37. Earlier, the Division Bench of this Court in the case of **Baby Aaliya (minor) vs. State of U.P. and Others, Writ-C No. 6408 of 2025**, granted protection to the interfaith live-in couple vide order dated 08.04.2025. The relevant part of the judgment of **Baby Aaliya (supra)**, is reproduced as under:

"5. This is a writ petition under Article 226 of the Constitution of India filed by the petitioner, who is a child, through her biological parents.

6. It appears that the father and mother of the child are of different religion and have been living together since 2018. The child is presently one year and four months old. The parents of the child are apprehensive of certain threats from the private respondents who are the erstwhile in-laws of the biological mother.

7. It is to be noted that after the death of the erstwhile husband, biological mother started living with the biological father.

8. In our view, under the Constitutional scheme the parents, who are major, are entitled to live together, even if they have not undergone

marriage (see: Gyan Devi vs. Superintendent, Nari Niketan, Delhi and others reported in (1976) 3 SCC 234; Lata Singh vs. State of U.P. and another reported in (2006) 5 SCC 475; and Bhagwan Das vs. State (NCT of Delhi) (2011) 6 SCC 396).

9. The parents of the child submits that the police authorities are not willing to register the first information report against the private respondents and the police authorities time and again are humiliating them when they approach the police station for lodging the first information report.

10 In light of the same, the Superintendent of Police, Sambhal is directed to ensure that the first information report should be registered at Police Station Chandausi, District Sambhal, if the parents of the child approach the police station. The Superintendent of Police, Sambhal is also directed to look into the aspect whether any security is required to be provided to the child and the parents in accordance with law. The authorities are also directed to act in accordance with the judgements indicated above.

11. With the above directions, the writ petition is allowed."

38. The Delhi High Court in the case of **Mohammad Shahnoor Mansoori vs. State of Delhi through Commissioner of Police and Others, W.P. (CRL) No. 2305 of 2025**, decided on 08.08.2025, has granted protection to an interfaith couple. The relevant paragraph of aforesaid judgment is reproduced as under:

"6. Article 21 of the Constitution guarantees to every individual the right to life and personal liberty, a guarantee that has been judicially recognised to encompass the freedom to marry a person of one's choice. The role of the State in this context is neither passive nor discretionary; it carries a positive obligation to safeguard the life and liberty of its citizens, even when such protection is sought against the wishes of their own families."

8. The Supreme Court has unequivocally recognised that the right of consenting adults to choose their life partner is a fundamental facet of

personal liberty under Article 21. That right cannot be rendered illusory by fear, coercion, or social disapproval. It follows that the State's protective machinery must be activated promptly and effectively, ensuring that the choice of an adult citizen, made freely and within the bounds of law, is preserved in substance and not merely in form.

9. *In view of the above circumstances, and taking into consideration that the Couple have submitted their application for marriage under the Special Marriage Act, 1954, the petition is disposed of with the following directions:*

The State shall ensure continued protection to the Petitioner and Ms. 'X' until such time as they solemnize their marriage under the Special Marriage Act, 1954.

*The Petitioners shall continue to be accommodated in a safe house for as long as deemed necessary to safeguard their life and liberty. The threat perception shall be assessed periodically and meaningfully by the concerned DCP, keeping in mind the principles and preventive measures outlined by the Supreme Court in **Shakti Vahini (supra)**.*

In the event of any coercive, intimidating, or threatening act, whether direct or indirect, by any person, including family members of Ms. 'X', such incident, upon being reported to the police, shall be promptly recorded in the DD, and appropriate preventive and penal measures shall be taken forthwith in accordance with law. The police shall also keep the petitioners informed of any action taken, so as to ensure their confidence in the protective process.

10. *Before parting, it must be emphasised that the constitutional guarantee under Article 21 enables every adult citizen may shape the course of their own life, free from fear, coercion, or unlawful restraint. The choice to marry, especially across lines of faith, may test the resilience of social norms and familial expectations, yet in law, it remains a matter of personal liberty and individual autonomy, immune from any external veto. While the anguish of a parent is understandable, it cannot*

eclipse the rights of a major to select their life partner. The State's role, therefore, is not confined to the passive avoidance of harm, but extends to the creation of conditions in which such rights can be safely and meaningfully exercised. The directions issued herein are thus intended to ensure that this freedom remains both real and protected.

39. Earlier the Hon'ble Apex Court in the case of **Supriyo @ Supriya Chakraborty and Another vs. Union of India, AIR 2023 SC 5823**, has discussed the law relating to inter-caste and interfaith marriage. It was observed by the Hon'ble Apex Court that couples in interfaith relationship have historically been forced to contend with and continue to contend that enormous difficulty while solemnizing their unions. It was further observed that the Constitution does not require individuals to first convince others of the legitimacy of the exercise of the constitutional rights before they exercise them. The relevant paragraphs of **Supriyo (supra)** are reproduced hereunder:

"116. Inter-caste and interfaith marriages were uncommon in the colonial era and established customs or usages did not govern such marriages. Then, as now, society subjected those who entered into inter-caste and interfaith marriages to discrimination and lence. There was initially no legal framework in place which governed such marriages. The Special Marriage Act 1872 was enacted to enable the solemnisation of marriages independent of personal law. If two people be-longing to different religions wished to marry, they were each required to renounce their respective religion in order to avail of its pro-visions. The law at the time did not supply a framework in terms of which two persons belonging to different religions could retain their association or spiritual connection to their respective religions and still marry one another.

117. Parliament was conscious of the limiting and restrictive character of the Special Marriage Act 1872 and enacted the SMA in 1954, which was a more permissive legislation in that any two persons could marry, without having to repudiate their respective religions. By stipulating that "a marriage between any two persons may be solemnized under this Act," 106 the SMA also set out a mechanism for inter-caste marriages to be solemnized independent of personal law.

118. *The families or relatives of couples who entered into inter-caste or interfaith marriages would frequently inflict violence upon them, even to the extent of brutally murdering them. Their communities would either ordain or participate in these atrocities. Such murders are colloquially referred to as "honour killings" and are more accurately termed as caste-based murders. It is a most unfortunate truth that this culture of violence persists to date. Couples who face this violence against couples in inter-caste and inter-opprobrium have knocked on the doors of this Court inter alia seeking protection from their families and others who oppose their relationship and this Court has otherwise been seized of cases arising from violence in this context. In Shakti Vahini v. Union of India, this Court took note of the interfaith marriages. It directed the state machinery to take preventive as well as remedial measures to protect such couples who wished to marry or who were recently married.*

119. *It is beyond dispute that couples in inter-caste and interfaith relationships have historically been forced to contend with and continue to contend with enormous difficulty while solemnizing their unions. As evident from the discussion in the preceding para-graph, large sections of society were and are fiercely opposed to such marriages. The opposition stems, at least in part, from a belief that a marriage ought to consist of two individuals from the same religion or caste. Parliament chose to enact the SMA despite the opposition to atypical marriages and has not chosen to repeal the SMA or otherwise exclude the celebration of inter-caste marriages under personal laws despite continuing hostility from the communities of such couples. Parliament has presumably done so because it is cognizant of the fact that the exercise of fundamental rights is not contingent upon the approval of the community. Similarly, this Court has carried out the constitutional mandate by protecting the rights of individuals and couples in the face of considerable opposition from their families. In a democracy, certain rights inhere in all individuals. If the exercise of rights was contingent upon everyone else or, at least a substantial portion of the community approving of such exercise, we would be doing a disservice to a constitutional democracy. The Constitution does not require individuals to first convince others of the legitimacy of the exercise of constitutional rights before they exercise them."*

40. This Court has already dealt with interfaith marriage contracted by the petitioners and total 17 petitions pertain to interfaith marriage were heard and allowed by this Court in case of **Mayra @ Vaishnvi Vilas Shirshikar and Another vs. State of U.P. and Others, Writ- C No. 14806 of 2021**, decided on 18.11.2021 and it was observed that the choice of a partner whether within or outside marriage lies within the exclusive domain of each individual. It was further observed that the Act, 2021, *per se* does not prohibit interfaith marriage. The relevant paragraph of **Mayra (Supra)**, are reproduced hereunder:

"I. Analysis and Conclusions

100. The Supreme Court, as well as, other Constitutional Courts have time and again realized that in a society undergoing rapid social and economic change, static judicial interpretation of the Constitution would stultify the spirit of the Constitution.

101. The right to privacy is implicit in the right to life and liberty guaranteed to the citizens of this country by Article 21. A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child-bearing and education among other matters.

102. The consent of the family or the community or the clan or the State or Executive is not necessary, once the two adult individuals agree to enter into a wedlock which is lawful and legal. Their consent has to be piously given primacy, with grace and dignity. The Marriage Officer/Registrar cannot refuse to register a duly solemnized marriage, and/or, insist of a conversion approval of the district authority.

103. The factum of marriage and the registration of marriage are entirely distinct and different. The registration merely evidences the factum of marriage between the parties, whereas, legality of the marriage, whether void or voidable, is for the aggrieved party to settle in accordance with the law before the designated forum/court.

104. The duty of the court is to uphold the right and not to abridge the sphere of the right unless there is a valid authority of law. The choice of a

partner, whether within or outside marriage, lies within the exclusive domain of each individual. Intimacies of marriage lie within a core zone of privacy, which is inviolable. The absolute right of an individual to choose a life partner is not in the least affected by matters of faith.

105. The Constitution as a living instrument, which enunciates eternal values for Indian society, possesses the resilience necessary to ensure its continued relevance. Constitution is not cast in stone to make it rigid beyond change. The features that is basic to the Constitution is fluid adapting and precisely responding to the changing social-cultural milieu in its ability to allow succeeding generations to apply the principles on which it has been founded, to find innovative solutions to intractable problems of their times. In doing so, we must equally understand that our solutions must continuously undergo a process of re-engineering. The Constitution is in the realm of philosophy than grammar. The Constitution has undergone change (over 100 amendments) in 70 years since 1950, in conformity with the changing social milieu reflecting the aspiration of the Indian people.

106. The law would be assessed not with reference to its object but on the basis of its effect and impact on the fundamental rights based on the test of fairness and reasonableness. The Unlawful Conversion Act, 2021, per se, does not prohibit interfaith marriage. The Marriage Registrar/Officer, however, lacks power to withhold the registration of marriage, merely for the reason that the parties have not obtained the necessary approval of conversion from the district authority. Such an approval is directory and not mandatory. If interpreted otherwise the Act would not satisfy the test of reasonableness and fairness, and would fail to pass the muster of Article 14 and Article 21.

J. Relief

107. The writ petitions are allowed by passing the following orders:

(i) The State respondents and the private respondents are restrained from interfering with the life, liberty and privacy of the petitioners to live as man and woman;

(ii) The police authorities of the respective districts shall ensure the safety of the petitioners and provide protection to them, if demanded or needed;

(iii) The Marriage Registrar/Officer of respective districts are directed to forthwith register the marriage of the petitioners, without, insisting/awaiting approval of the competent district authority with regard to conversion of faith;

(iv) It will be open to the aggrieved party, in the event of fraud and misrepresentation, to take recourse of law, both - criminal and civil, including, annulment of marriage before the competent forum;

(v) The Government of India to consider the constitution of a Committee/Commission for implementing the mandate of Article 44, as directed by the Supreme Court;

(vi) The State Government to issue appropriate Government Order to the Marriage Registrar/Officer, District Authority, to comply and implement this order;

(vii) It will be open to the private respondents to seek modification/recall of this order in the event of being affected by the order;

(ix) The Registrar General of this Court is directed to supply copy of this order to -

*(a) Department of Justice, Ministry of Law and Justice,
Government of India, New Delhi.*

*(b) The Chief Secretary, Government of Uttar Pradesh,
Lucknow."*

41. This Court in the case of **Akanksha and Another vs. State of U.P. and Three Others, Writ- C No. 35171 of 2025**, decided on 17.12.2025, granted protection to the petitioners, of same religion, who were major and had taken a decision to reside together without the sanctity of the marriage. The relevant paragraphs of **Akanksha (supra)** are reproduced hereunder:

"46. Once an individual, who is a major, has chosen his/her partner, it is

not for any other person, be it a family member, to object and cause a hindrance to their peaceful existence. It is the bounden duty of the State, as per the Constitutional obligations casted upon it, to protect the life and liberty of every citizen. Right to human life is to be treated on much higher pedestal, regardless of a citizen being minor or major, married or unmarried. Mere fact that the petitioners have not solemnized marriage, would not deprive them of their fundamental right as envisaged in the Constitution of India being citizens of India. This Court has no hesitation to hold that the Constitutional's fundamental right under Article 21 of the Constitution of India stands on a much higher pedestal. Being sacrosanct, under the Constitutional scheme it must be protected, regardless of the solemnization of marriage or even the absence of any marriage between the parties.

47. The petitioners herein, who are major, have taken a decision to reside together without the sanctity of the marriage and it is not for the Courts to judge them on their decision. If the petitioners herein have not committed any offence, this Court sees no reason as to why their prayer for grant of protection cannot be acceded to. Therefore, with due respect to the judgments rendered by the co-ordinate Benches, who have denied protection to couples, who were in a live-in relationship, this Court is unable to adopt the same view.

48. It is well settled legal position as expounded by the Hon'ble Supreme court in the case of Lata Singh (supra), S. Khushboo (supra), Indra Sarma (supra) and Shafin Jahan (supra) and other judgments passed by various High Courts including ours, that the life and liberty of the individuals has to be protected, except according to procedure established by law, as mandated by Article 21 of the Constitution of India.

49. In the opinion of the Court, a person, who has attained the age of majority as per Section 3 of the Majority Act, is able to understand his/her welfare and, therefore, he/she could not be restricted to go wherever he/she likes. He/she is free to live with anybody and could not be restrained from doing so.

.....

51. *Having regard to the facts and circumstances of the case, this Court is of the view that the petitioners are at liberty to live together peacefully and no person shall be permitted to interfere in their peaceful living. As right to life is a fundamental life ensured under Article 21 of the Constitution wherein it is provided that no person shall be deprived of his right to life and personal liberty except according to procedure established by law.*

52. *In case, any disturbance is caused in the peaceful living of the petitioners, the petitioners shall approach the Commissioner of Police/SSP/SP concerned with certified copy of this order and the Police Officer after being satisfied that the petitioners are major and willingly living together, will provide immediate protection to the petitioners. If the petitioners are educated and they produce their educational certificates and other certificates admissible under law, from which it is evident that they have attained the majority and they are living with their free will then no Police Officer shall take any coercive action against them unless an F.I.R. is registered against them in respect of any offence whatsoever. If they do not have any documentary proof regarding age and they come from rural background and or illiterate/semi-literate, the Police Officer can subject such boy or girl to ossification test to verify their correct age and he can also follow the other procedure permissible under the law.*

53. *Accordingly, aforesaid writ petitions are allowed."*

42. This Court sees no reason to take a different view in this matter also since the law is equal for all as per Article 14 and 15 of the Constitution of India and if two persons of same religion may reside together in a live-in relationship, the other persons having different religion may also live together in a live-in relationship.

43. The Article 14 and 15 of the Constitution of India ensure equal treatment of all individual. It does not discriminate against citizens based on religion, race, caste, sex or place of birth. For reference Article 14 & 15 of the Constitution of India are reproduced hereunder:

*"14. **Equality before law.**—The State shall not deny to any person equality before the law or the equal protection of the laws within the*

territory of India.

15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.—(1) *The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.*

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—

(a) access to shops, public restaurants, hotels and places of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

(5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.

(6) Nothing in this article or sub-clause (g) of clause (1) of article 19 or clause (2) of article 29 shall prevent the State from making,—

(a) any special provision for the advancement of any economically weaker sections of citizens other than the

classes mentioned in clauses (4) and (5); and

(b) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent. of the total seats in each category.

Explanation.—For the purposes of this article and article 16, "economically weaker sections" shall be such as may be notified by the State from time to time on the basis of family income and other indicators of economic disadvantage."

44. Justice D.Y. Chandrachud, while delivering the judgment of **Shafin Jahan (supra)** has held that right to marry a person of one's choice is integral to Article 21 of the Constitution. It guarantees the right of life and personal liberty. The Constitution protects the ability of each individual to pursue a way of life or faith to which he or she seeks to adhere. The relevant paragraphs of **Shafin Jhana (supra)**, are reproduced as hereunder:

"17. The exercise of the jurisdiction to declare the marriage null and void, while entertaining a petition for habeas corpus, is plainly in excess of judicial power. The High Court has transgressed the limits on its jurisdiction in a habeas corpus petition. In the process, there has been a serious transgression of constitutional rights. That is the second facet to which we now turn.

18. Hadiya and Shafin Jahan are adults. Under Muslim law, marriage or Nikah is a contract. Muslim law recognises the right of adults to marry by their own free will. The conditions for a valid Muslim marriage are:

(i) Both the individuals must profess Islam;

(ii) *Both should be of the age of puberty;*

(iii) *There has to be an offer and acceptance and two witnesses must be present;*

(iv) *Dower and Mehar; and*

(v) *Absence of a prohibited degree of relationship.*

19. *A marriage can be dissolved at the behest of parties to it, by a competent court of law. Marital status is conferred through legislation or, as the case may be, custom. Deprivation of marital status is a matter of serious import and must be strictly in accordance with law. The High Court in the exercise of its jurisdiction Under Article 226 ought not to have embarked on the course of annulling the marriage. The Constitution recognises the liberty and autonomy which inheres in each individual. This includes the ability to take decisions on aspects which define one's personhood and identity. The choice of a partner whether within or outside marriage lies within the exclusive domain of each individual. Intimacies of marriage lie within a core zone of privacy, which is inviolable. The absolute right of an individual to choose a life partner is not in the least affected by matters of faith. The Constitution guarantees to each individual the right freely to practise, profess and propagate religion. Choices of faith and belief as indeed choices in matters of marriage lie within an area where individual autonomy is supreme. The law prescribes conditions for a valid marriage. It provides remedies when relationships run aground. Neither the state nor the law can dictate a choice of partners or limit the free ability of every person to decide on these matters. They form the essence of personal liberty under the Constitution. In deciding whether Shafin Jahan is a fit person for Hadiya to marry, the High Court has entered into prohibited terrain. Our choices are respected because they are ours. Social approval for intimate personal decisions is not the basis for recognising them. Indeed, the Constitution protects personal liberty from disapproving audiences.*

20. *Article 16 of the Universal Declaration of Human Rights underscores the fundamental importance of marriage as an incident of human liberty:*

"Article 16.

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State."

21. The right to marry a person of one's choice is integral to Article 21 of the Constitution. The Constitution guarantees the right to life. This right cannot be taken away except through a law which is substantively and procedurally fair, just and reasonable. Intrinsic to the liberty which the Constitution guarantees as a fundamental right is the ability of each individual to take decisions on matters central to the pursuit of happiness. Matters of belief and faith, including whether to believe are at the core of constitutional liberty. The Constitution exists for believers as well as for agnostics. The Constitution protects the ability of each individual to pursue a way of life or faith to which she or he seeks to adhere. Matters of dress and of food, of ideas and ideologies, of love and partnership are within the central aspects of identity. The law may regulate (subject to constitutional compliance) the conditions of a valid marriage, as it may regulate the situations in which a marital tie can be ended or annulled. These remedies are available to parties to a marriage for it is they who decide best on whether they 06-12-2024 (Page 25 of 27) www.manupatra.com Legal Observer Trust should accept each other into a marital tie or continue in that relationship. Society has no role to play in determining our choice of partners.

*22. In Justice **K.S. Puttaswamy v. Union of India** MANU/SC/1044/2017 : 2017 (10) SCC 1, this Court in a decision of nine judges held that the ability to make decisions on matters close to one's life is an inviolable aspect of the human personality:*

"The autonomy of the individual is the ability to make decisions on vital matters of concern to life. The intersection between one's mental integrity and privacy entitles the individual to freedom of thought, the freedom to believe in what is right, and the freedom of self-determination. The family, marriage, procreation and sexual orientation are all integral to the dignity of the individual."

*A Constitution Bench of this Court, in **Common Cause (A Regd. Society) v. Union of India, Writ Petition (Civil) No. 215 of 2025, held:***

"Our autonomy as persons is founded on the ability to decide: on what to wear and how to dress, on what to eat and on the food that we share, on when to speak and what we speak, on the right to believe or not to believe, on whom to love and whom to partner, and to freely decide on innumerable matters of consequence and detail to our daily lives."

The strength of the Constitution, therefore, lies in the guarantee which it affords that each individual will have a protected entitlement in determining a choice of partner to share intimacies within or outside marriage.

*23. The High Court, in the present case, has treaded on an area which must be out of bounds for a constitutional court. The views of the High Court have encroached into a private space reserved for women and men in which neither law nor the judges can intrude. The High Court was of the view that at twenty four, Hadiya "is weak and vulnerable, capable of being exploited in many ways". The High Court has lost sight of the fact that she is a major, capable of taking her own decisions and is entitled to the right recognised by the Constitution to lead her life exactly as she pleases. The concern of this Court in intervening in this matter is as much about the miscarriage of justice that has resulted in the High Court as much as about the paternalism which underlies the approach to constitutional interpretation reflected in the judgment in appeal. The superior courts, when they exercise their jurisdiction *parens patriae* do so in the case of persons who are incapable of asserting a free will such as*

minors or persons of unsound mind. The exercise of that jurisdiction should not transgress into the area of determining the suitability of partners to a marital tie. That decision rests exclusively with the individuals themselves. Neither the state nor society can intrude into that domain. The strength of our Constitution lies in its acceptance of the plurality and diversity of our culture. Intimacies of marriage, including the choices which individuals make on whether or not to marry and on whom to marry, lie outside the control of the state. Courts as upholders of constitutional freedoms must safeguard these freedoms. The cohesion and stability of our society depend on our syncretic culture. The Constitution protects it. Courts are duty bound not to swerve from the path of upholding our pluralism and diversity as a nation.

24. Interference by the State in such matters has a seriously chilling effect on the exercise of freedoms. Others are dissuaded to exercise their liberties for fear of the reprisals which may result upon the free exercise of choice. The chilling effect on others has a pernicious tendency to prevent them from asserting their liberty. Public spectacles involving a harsh exercise of State power prevent the exercise of freedom, by others in the same milieu. Nothing can be as destructive of freedom and liberty. Fear silences freedom."

45. This Court notes that in view of the large number of young couples approaching this Court seeking protection of their life and liberty, this Court, in Writ-C No. 24328 of 2019 (Suman Ahirwar and others vs. State of U.P. and others), after taking note of the judgment of the Hon'ble Supreme Court in **Shakti Vahini vs. Union of India, 2018 (7) SCC 192**, directed the State authorities to evolve an effective mechanism and frame guidelines to address such cases at the district level. Pursuant to the said directions, the State Government issued Government Order No. 1/2019/591WRIT/Chh-Pu.-3-2019-2(344)P/2019 (संख्या-1/2019/591 रिट/छ-पु-3-2019-2(344)पी/2019) dated 31.08.2019, laying down mandatory preventive, remedial and punitive measures for protection of couples facing threats on account of marriage or any consensual relationship.

46. The said Government Order mandates that the police authorities shall

assess threat perception in each case, extend necessary protection, including safe accommodation and security shall be provided depending upon the gravity of the situation. It further provides that cases involving Khap Panchayats or honour-based threats are to be treated as serious matters, however even in other cases of familial opposition, the authorities are duty-bound to evaluate risk and grant appropriate relief. Failure to comply with these directions has been made punishable by departmental action. The relevant extract of the aforesaid Government Order dated 31.8.2019 reads as under:

"(3) 2- उपचारात्मक उपाय:-

(ए) ...

(बी) ...

(सी) इसके अतिरिक्त कपुल/पारिवारिक सदस्यों को सुरक्षा उपलब्ध करायी जाये तथा आवश्यकतानुसार उन्हें उसी जिले में उनकी सुरक्षा व भय को दृष्टिगत रखते हुए सुरक्षित स्थान पर रखा जाये।

(i) ऐसे युवा अविवाहित कपुल (जोड़े) जिनके सम्बन्धों को परिवार द्वारा अथवा स्थानीय खाप द्वारा विरोध किया जाता है।

(ii) ऐसे युवक विवाहित (युवक/युवतियाँ) जो अन्तर्जातीय व अन्तर्धर्गीय विवाह से सम्बन्धित है उन्हें सुरक्षित रखने हेतु क्षेत्राधिकारी वाले मजिस्ट्रेट व पुलिस अधीक्षक के निर्देश से सुरक्षित घरों में रखने की व्यवस्था की जाये।

(डी) जिला मजिस्ट्रेट/पुलिस अधीक्षक द्वारा ऐसे युगल अथवा परिवार के सदस्यों की जीवन भय के सम्बन्ध में की गयी शिकायतों पर संवेदनशीलता बरती जाये। पहले यह सुनिश्चित किया जाये कि ऐसे अविवाहित युवक/युवतियाँ जो यदि व्यस्क हो तो उन्हें विवाह हेतु सहयोग प्रदान करते हुए विवाह पंजीकरण में सहयोग प्रदान किया जाये। विवाह के पश्चात यदि वे इच्छा व्यक्त करते हैं तो उन्हें न्यूनतम दर पर 01 माह के लिये सुरक्षित घर उपलब्ध कराया जाये, किन्तु यह 01 वर्ष से अधिक की अवधि से अधिक नहीं होगी जी उनके जीवन भय की समय सीमा पर आधारित होगी।

(ई) ऐसे अविवाहित युवक/युवतियाँ अथवा युवा विवाहित जोड़ों अथवा स्वतंत्र श्रोत से शिकायत प्राप्त होने पर उसकी जाँच करायी जाय कि क्या उनके द्वारा या स्थानीय समुदाय या

खाप द्वारा उनका विरोध किया जा रहा है. तब जिला मजिस्ट्रेट व पुलिस अधीक्षक अथवा अतिरिक्त पुलिस अधीक्षक द्वारा प्रकरण की गंभीरता एवं जीवन भय की समस्या के सम्बन्ध में प्रारंभिक जाँच करायी जायेगी और जाँच रिपोर्ट वरिष्ठ पुलिस अधीक्षक को 01 सप्ताह के अंदर प्रस्तुत की जायेगी।"

47. For convenience, the english translated version of the above quoted extract of the Government Order dated 31.8.2019, is reproduced below:-

"3(2) Remedial Measures

(a) ...

(b) ...

(c) *Additionally, the security should be provided to the couple/family members and, if necessary, they should be kept at a safe house within the same district keeping in mind their safety and threat perception.*

(i) young unmarried couples whose relationship is being opposed by their families or local khap.

(ii) such young married (girls/boys) who relate to an inter-caste or inter-religious marriage, arrangement should be made to keep them safe in secure houses under the supervision and instructions of the jurisdictional Magistrate and Superintendent of Police.

(d) The District Magistrate/Superintendent of Police must deal with the complaint regarding threats administered to such a couple/family with utmost sensitivity. It should be first ascertained that such unmarried couples, if they are adults, should be provided support in the registration process of their marriage. After the marriage, if the couple so desire, they should be provided accommodation on payment of nominal charges in a secure house for a period of one month but not exceeding one year in aggregate, depending on their threat assessment on case to case basis.

(e) The inquiry regarding the complaint received from the unmarried couple or a young married couple or upon receiving information from an independent source that they are being opposed by them/local

community/Khap, shall be conducted. The District Magistrate/Superintendent of Police or Additional Superintendent of Police shall conduct a preliminary inquiry in relation to the gravity of the case and threat perception and he shall submit a report to the Senior Superintendent of Police within one week...”

48. The Hon'ble Apex Court as well as this Court in a catena of decision have held that live-in relation is neither prohibited nor punishable under any law. Therefore, considering Article 14, 15 and 21 of the Constitution of India and the Act, 2021, it cannot be said that live-in relationship of interfaith couple is an offence. If an offence had been committed, it would have been reported by any person in terms of Section 4 of the Act, 2021. No F.I.R. or complaint has been registered till date in respect of live-in relationship of the petitioners. Secondly, this Court is not a trial court to find out as to whether any offence has been committed by the petitioners by putting themselves in a live-in relationship. This Court at this stage is only examining the issue of apprehension of the petitioners based on threat to their life and liberty for the reasons/circumstances as narrated in the petition. If the petitioners have not committed any offence, this Court sees no reason as to why their prayer for grant of protection cannot be acceded to.

49. The issue in hand, is the deprivation of fundamental right of seeking protection of life and liberty. I have no hesitation to hold that Constitutional Fundamental Right under Article 21 of Constitution of India stands on a much higher pedestal. Being sacrosanct under the Constitutional Scheme it must be protected, regardless of the solemnization of an invalid or void marriage or even the absence of any marriage between the parties.

50. It is the bounden duty of the State as per the Constitutional obligations casted upon it to protect the life and liberty of every citizen. Right to human life is to be treated on much higher pedestal, regardless of a citizen's religious belief. The mere fact that the petitioners are living in an interfaith relationship, would not deprive them of their fundamental right as envisaged in Constitution of India, being citizens of India. No discrimination can be made on the basis of caste, creed, sex or religion.

51. Accordingly, the writ petitions filed by the petitioners stand **allowed** with the following observations:

(i) The petitioners herein are at liberty to approach the police authorities for redressal of their grievances, in case any harm is caused by private respondents or their associates. Upon receipt of such application, the police authorities shall examine the matter and age of the petitioners and if they find any substance in the allegations of the petitioners, they will act in accordance with law for protection of life, limb and liberty of the petitioners.

(ii) The petitioners may lodge a report/complaint if anybody attempts to convert their religion against their wishes, or by any fraudulent means, force, coercion, allurement, undue influence or practice of misrepresentation.

(iii) The directions contained in the above Government Order dated 31.08.2019 are binding upon all concerned authorities and shall be strictly complied with.

(iv) This order would not come in way of investigation, if any, pending before the Police Authorities.

52. No order as to cost.

53. Before parting with these cases, I would render my gratitude and appreciation for the invaluable assistance provided to the Court by Mr. Swetashwa Agarwal, learned Senior Advocate, as Amicus Curiae, ably assisted by Sri Subir Lal and Sri Sausthav Guha, learned counsels for the petitioners.

54. The hard work as well as arguments advanced by above named State Counsels, are also appreciable.

55. I would like to put in a word of appreciation for my Research Associate Ms. Priyanshi Hirwani, for her dexterity in research and superlative assistance in drafting of this judgment.

56. However, it is made clear that this Court has not adjudicated the correct age of the petitioners. It is further clarified, this order has not been passed to protect the petitioners against any action or proceedings instituted in accordance with law.

57. Since the petition is being disposed of in limine, any person aggrieved by it is at liberty to apply for its recall, if the order has been obtained by suppression or concealment of facts or on false averments.

(Vivek Kumar Singh,J.)

February 23, 2026

A.P. Pandey