



***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION (STAMP) NO.11737 OF 2023

XYZ and Anr.

...Petitioners

Versus

State of Maharashtra and Ors.

...Respondents

Mr. Vijay Hiremath a/w Mr. Surya Kore, for the Petitioners.

Ms. P. P. Shinde, A.P.P for the Respondents – State.

API – Sharad S. Mali and API – Mubarak Shaikh, are present.

***CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.***

DATE : 5th JULY 2023

P.C. :

1. At the outset, learned counsel for the petitioners seeks leave to amend i.e. to amend the prayer clauses. Leave granted. Amendment to be carried out forthwith. Corresponding amendment be also carried out in the copies of the learned APP.

2. By this petition, the petitioners seek a direction to the respondent Nos.1 and 2 to provide the petitioners appropriate

protection, so as to safeguard their life, liberty and dignity, in particular protection from the petitioner No.1's family. In the amended prayers, it is prayed that the petitioners be protected from being forced to leave Maharashtra; that the respondents be directed not to take any coercive action against the petitioners on any missing complaint; and that certain guidelines be framed for the police in handling/dealing with the cases pertaining to LGBTQIA+ persons.

3. The petitioner No.1, aged 28 years, is not a resident of Maharashtra. The petitioner No.1 is a double Graduate, having completed her B.A and B.Com. The petitioner No.2 is a resident of Maharashtra, aged 32 years and works in a hospital. According to the petitioners, the relationship between them i.e. same sex relationship, is consensual. According to the learned counsel for the petitioners, the petitioner No.1 voluntarily left her house and decided to cohabit with the petitioner No.2, who lives in Maharashtra (we have withheld the name of the cities and name of the petitioner No.1's State, to protect the petitioners identity, so that their whereabouts are not

known to the petitioner No.1's family, in view of the apprehension expressed by the petitioners).

4. According to the learned counsel for the petitioners, the petitioner No.1 had on an earlier occasion, left her house and come to live with the petitioner No.2, however, she was forcibly taken back by her parents, back home. Thereafter, the petitioner No.1 again left her house and came to stay with the petitioner No.2. It also appears that the petitioner No.1's family had registered a missing complaint and that on one such occasion they had approached the police station i.e. in the jurisdiction where the petitioner No.2 lives (name of the police station is withheld) and that the police had compelled the petitioner No.1 to go back to her parents. According to the learned counsel for the petitioners, the petitioners had met each other on a social media platform in 2020, after which they decided to live together. It is submitted that the same sex relationship is consensual between the petitioners and that they being adults, the police as well as the parents should not interfere in their lives and allow them to live their lives

with dignity.

5. Considering what was told to us by the learned counsel for the petitioners on the earlier date, we thought it fit to call the concerned officer from the police station, where the petitioners are residing presently and the police officer from the police station, within whose jurisdiction the petitioner No.2 resides. Pursuant thereto, the officers from the concerned police stations, are present before us.

6. Learned APP on instructions of the said officers assures us, that the petitioners will be provided protection as and when sought for, and that a lady police constable will be deputed, whenever the petitioners have an apprehension; that the said lady police constable, so deputed, will be in a civil uniform whenever she is required to go; that the contact number of the concerned officer will be shared with the petitioners, so as to enable them to call the said officer, whenever they have an apprehension with respect to their safety and security; and that the said officer will respond and act on the calls made by the

petitioners. Statements so made on instructions of the officer present in Court, are accepted.

7. We are informed that the petitioner No.2 intends to visit her maternal house where her belongings are kept and that the petitioners apprehend danger to their lives and hence the learned counsel for the petitioners requests that a police constable be deputed with them at the time when the petitioners go to take their belongings. We are further informed that as far as petitioner No.2 is concerned, her parents have accepted the consensual relationship between the petitioner No.1 and the petitioner No.2. (The names of the police stations are also not mentioned so that the present place of residence of the petitioners or that of the petitioner No.2 is not known to the petitioner No.1's family).

8. Learned APP assures that the concerned police officer from the jurisdiction in which the petitioners' are currently residing, will accompany the petitioners in plain clothes when the petitioners go to

collect petitioner No.2's belongings. Learned APP also assures that no coercive steps will be taken in the event, a missing complaint is filed by the family members of the petitioner No.1 to send the petitioner No.1 back to her home State. Statement accepted.

9. Learned APP to inform both the concerned police stations to exhibit sensitivity and to take prompt steps to ensure their safety and to protect the lives of the petitioners.

10. Stand over to 19th July 2023. To be listed on the Supplementary Board.

All concerned to act on the authenticated copy of this order.

GAURI GODSE, J.

REVATI MOHITE DERE, J.