

**IN THE HIGH COURT OF JAMMU AND KASHMIR  
AT JAMMU**

WP(C) No. 2386/2019  
CM No. 4762/2019

Harpreet Kour and anr .....Petitioner(s)

Through :- Mr. Kapil Singh, Advocate.

**Vs**

State of J&K and ors .... Respondent(s)

Through :-

**CORAM:**

**HON'BLE MR. JUSTICE RASHID ALI DAR, JUDGE**

**ORDER**

01. Petitioners, through the medium of the instant petition, have sought relief for issuance of writ of mandamus commanding the respondent Nos.1 to 3 to provide protection to the petitioners, who have solemnized marriage contrary to the wishes of respondent Nos. 4 and 5, also to ensure that no harassment be caused to the petitioners at the behest of respondent Nos.4&5.

02. Heard learned counsel for the petitioners, who laid emphasis on the judgment rendered by the Hon'ble Apex Court in **Lata Singh Vs. State of U.P. and others, AIR (2006)5 SCC 475.**

03. In order to appreciate the contentions raised in the referred writ petition as to whether the petitioners are entitled to any relief, it would be proper to go through the facts and the principles of law of the judgment of Lata Singh(supra), as narrated therein along-with the direction so passed:-

*“The petitioner is a young woman now aged about 27 years who is a graduate and at the relevant time was pursuing her Masters course in Hindi in the Lucknow University. Due to the sudden death of her parents she started living with her brother Ajay Pratap Singh at LDA Colony, Kanpur Road, Lucknow, where she did her intermediate in 1997 and graduation in 2000.*

*It is alleged by the petitioner that on 2.11.2000 she left her brother's house of her own free will and got married at AryaSamajMandir, Delhi to one BramhaNand Gupta who has business in Delhi and other places and they have a child out of this wedlock.*

*Thereafter on 4.11.2000, the petitioner's brother lodged a missing person report at Sarojini Nagar Police Station, Lucknow and consequently the police arrested two sisters of the petitioner's husband along with the husband of one of the sisters and the cousin of the petitioner's husband. The persons arrested were Mamta Gupta, Sangita Gupta (sisters of Brahma Nand Gupta), as well as Rakesh Gupta (husband of Mamta Gupta) and Kallu Gupta cousin of the petitioner's husband. Mamta was in jail with her one month old child.*

*It is further alleged that the petitioner's brothers Ajay Pratap Singh, ShashiPratap Singh and AnandPratap Singh were furious because the petitioner underwent an inter-caste marriage, and hence they went to the petitioner's husband's paternal residence and vehemently beat up her husband's mother and uncle, threw the luggage, furniture, utensils, etc. from the house and locked it with their lock. One brother of the petitioner's husband was allegedly locked in a room by the petitioner's brothers for four or five days without meals and water. The petitioner's brothers also allegedly cut away the harvest crops of the agricultural field of the petitioner's husband and sold it, and they also took forcible possession of the field. They also lodged a false police report alleging kidnapping of the petitioner against her husband and his relatives at Police Station Sarojini Nagar, Lucknow, due to which the sisters of the petitioner's husband, and the husband of one of the sisters, were arrested and detained in Lucknow jail. The petitioner's brothers also illegally took possession of the shop of the petitioner's husband. The petitioner's husband has a shop at Badan Singh Market, Rangpuri in the name of Gupta Helmet Shop whose possession was forcibly taken over by her brothers.*

*It is further alleged that the petitioner's brothers are threatening to kill the petitioner's husband and his relatives, and kidnap and kill her also. The Gupta family members are afraid of going to Lucknow out of fear of violence by the petitioner's brothers, who are of a criminal bent.*

*It is alleged that the petitioner's husband and relatives have been falsely framed by her brothers ShashiPratap Singh, Ajay Pratap Singh and AnandPratap Singh who were furious because of the inter-caste marriage of the*

*petitioner with BramhaNand Gupta. Mamta Gupta, Rakesh Gupta and Sangita Gupta were arrested on 17.12.2000, whereas Kallu Gupta was arrested on 02.12.2000. It is alleged that the three relatives of the petitioner's husband were not granted bail for a long time and their lives got ruined though there was no case against them that they instigated the petitioner to get married to BramhaNand Gupta. It is also alleged that the petitioner ran from pillar to post to save her husband and relatives from harassment and she then approached the Rajasthan Women Commission, Jaipur, as she was staying in Jaipur almost in hiding apprehending danger to her and her husband's life. The Commission recorded her statement on 13.3.2001 and the same was forwarded to the Superintendent of Police (City), Lucknow for necessary action. The President of the Rajasthan State Women Commission also wrote a letter to the National Human Rights Commission on 13.3.2001 requesting the Commission and the Chief Secretary, Government of Uttar Pradesh, to intervene in the matter.*

*A final report was submitted by the SHO, Police Station Sarojini Nagar, Lucknow before the learned Judicial Magistrate inter-alia mentioning that no offence was committed by any of the accused persons and consequently the learned Sessions Judge, Lucknow enlarged the accused on bail on furnishing a personal bond on 16.5.2001 by observing that neither was there any offence nor were the accused involved in any offence. The Superintendent of Police, Lucknow informed the National Human Rights Commission that all the accused persons have been released on bail on 17.5.2001.*

*Thereafter the Investigating Officer recorded the statement of the petitioner Lata Gupta @ Lata Singh on 28.5.2001 and for this purpose armed security was provided to her. The learned Chief Judicial Magistrate, Lucknow recorded the statement of the petitioner under [section 164](#) Cr.P.C. on 29.5.2001. In that statement the petitioner stated that she married BramhaNand Gupta of her own free will. Despite this statement, the learned Chief Judicial Magistrate, Lucknow passed the committal order on 5.10.2001 ignoring the fact that the Police had already filed a final report in the matter.*

*It appears that a protest petition was filed against the final report of the Police alleging that the petitioner was not mentally fit. However, the petitioner was medically examined by the Board of Doctors of Psychiatric Centre, Jaipur, who have stated that the petitioner was not suffering from any type of mental illness.*

*The Fast Track Court, Lucknow before whom the case was pending issued non-bailable warrants against all the four accused, and against the order of the Fast Track Court, the accused filed a petition under [section 482](#) Cr.P.C. in the Allahabad High Court (Lucknow*

*Bench) which was registered as Crl. Misc. No. 520/2003. The High Court directed the accused to appear before the Sessions Judge who would himself scrutinize whether the accused committed any offence or not. The matter is still pending.*

*The petitioner alleged that she cannot visit Lucknow as she apprehends danger to her life and the lives of her husband and small child. She has further alleged that her brothers have assaulted, humiliated and irreparably harmed the entire family members of her husband BramhaNand Gupta and their properties, and even the remote relatives were not spared and were threatened to be killed. Their properties including the house and agricultural lands and shops were forcibly taken over by the brothers of the petitioner and the lives of the petitioner and her husband are in constant danger as her brothers have been threatening them.....*

*In the circumstances, the writ petition is allowed. The proceedings in Sessions Trial No. 1201/2001 titled State of U.P. vs. Sangita Gupta & Ors. arising out of FIR No. 336/2000 registered at Police Station Sarojini Nagar, Lucknow and pending in the Fast Track Court V, Lucknow are quashed. The warrants against the accused are also quashed. The police at all the concerned places should ensure that neither the petitioner nor her husband nor any relatives of the petitioner's husband are harassed or threatened nor any acts of violence are committed against them. If anybody is found doing so, he should be proceeded against sternly in accordance with law, by the authorities concerned.*

*We further direct that in view of the allegations in the petition (set out above) criminal proceedings shall be instituted forthwith by the concerned authorities against the petitioner's brothers and others involved in accordance with law. Petition allowed."*

04. The Hon'ble Apex Court as noted from the judgment has observed that the case reveals shocking state of affairs. Their lordships' had also noted the discriminatory role of the police which instead of taking action against the petitioner's brothers for their unlawful and highhanded acts had proceeded against the petitioners. Their lordships' had also noted the curse of the caste system. Observations have been also made that in the free and democratic country once a person becomes major he or she can choose a spouse of his/her choice. As such,

a general direction came to be passed relating to the inter-caste/inter-religious marriages:-

***“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.”***

05. The petitioners have not annexed prima facie proof in support of the petition that they had approached the official respondents to provide protection and they declined to act in the matter.

06. I, as such, leave the petitioners free to appear before the official respondents and submit representation before the police authorities in particular Senior Superintendent of Police concerned for redressal of their grievance, if any, regarding the conduct of the private respondents or any official respondents relating to the matrimonial relationship of the petitioners, who, in such eventuality shall consider the same and decide in accordance with the legal provisions of law governing the field.

07. Apposite to mention here that the petitioners will not be precluded to approach this Court afresh against the authorities if any ground is available after they appear before the concerned police and after submission of representation.

08. A copy of this order be sent to the SSP concerned for necessary action.

09. Disposed of in the terms, indicated above.

**(Rashid Ali Dar)**  
**Judge**

JAMMU  
25.06.2019  
VIJAY

