

S.No.118
suppl. list

IN THE HIGH COURT OF JAMMU AND KASHMIR AT
SRINAGAR

Case No: WP (C) 3867/2019
CM No. 7981/2019

Shaheena Bano & Anor.

Petitioner (s)

Through: Mr.Wani Manzoor, Advocate

V/s

Union Territory of J&k through Commissioner Secy. Home Deptt.

Through: None

Respondent(s)

CORAM: Hon'ble Mr. Justice Dhiraj Singh Thakur, Judge

Order dated
31.12.2019

1. Petitioners are present in person.
2. Petitioner No. 1 namely Shaheena Bano states that she has attained the age of majority and has married with petitioner No. 2 of her own free will and without any undue threat or coercion.
3. The documents reflecting the marriage of the petitioners are on record. Learned counsel for the petitioners have also placed on record the documents, which show that both the petitioners are major.
4. It is stated that despite having married each other with their own free will and consent, the private respondent through the agency of police may try to harass them and get them framed in false cases.
5. In similar circumstances where parties had entered into wedlock of their own free will and volition, the Hon'ble Supreme Court in **Lata Singh v. State of UP and anr, AIR 2006 SC 2522** has held as under:

“14. This case reveals a shocking state of affairs. There is no dispute that the petitioner is a major and was at all relevant times a major. Hence she is free to marry anyone she likes or live with anyone she likes. There is no bar to an inter-caste marriage under the Hindu Marriage Act or any other law. Hence, we cannot see what offence was committed by the petitioner, her husband or her husband's

relatives.....
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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, anyone 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.”

6. In view of the above, this petition is, accordingly, disposed of at this stage, with a direction that the official respondent Nos. 2 to 6 shall ensure the protection of life and liberty of the petitioners and shall take appropriate steps strictly in accordance with the ratio of the judgment (supra).

(Dhiraj Singh Thakur)
Judge

Srinagar
31.12.2019
Mujtaba