

Court No. - 1

Case :- CRIMINAL MISC. WRIT PETITION No. - 4488 of 2024

Petitioner :- Pushpa Devi And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. And Others

Counsel for Petitioner :- Ashish Raman Mishra

Counsel for Respondent :- G.A.

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Ajai Kumar Srivastava-I,J.

1. Supplementary affidavit filed by learned counsel for the petitioners is taken on record.

2. Heard learned counsel for the petitioners and learned A.G.A. for the State.

3. This petition has been filed with the following prayers:-

(i) Issue a writ, order or direction in the nature of mandamus commanding the opposite party no. 3 not to harass and disturb the peaceful marriage life and liberty of the petitioners.

(ii) Issue a writ, order or direction in the nature of mandamus commanding the opposite parties no. 2 to restrain the opposite party no. 3 not to harass and disturb peaceful life and liberty of the petitioners.

4. Learned counsel for the petitioners states that both the petitioners are major and they have married out of their own free will as per Hindu rites and rituals on 24.5.2024 at Arya Samaj Mandir, Lucknow. In support of his contention, learned counsel has annexed family register of petitioner no. 1 contained as annexure SA-1 to the writ petition. As per family register, the petitioner no. 1 is major and she has categorically stated that she has married with the petitioner no. 2 out of her free will and wants to lead her life with him as his wife.

5. Both the petitioners are present in person before this Court and from appearance they appear to be major.

6. Learned A.G.A. on the basis of instructions has stated that there is no complaint or F.I.R. lodged against the petitioners and they are not being harassed by the local police concerned.

7. It has been alleged that petitioners have entered into matrimonial relationship being above the age of majority. The grievance of the petitioners in the writ petition is that personal liberty of the petitioners is unduly interfered with by the police authorities without there being any complaint or F.I.R. lodged against them. The position in law as laid down by Apex Court in paragraph 17 of the case of **Lata Singh Vs. State of U.P. and another, 2006 (5) SCC 475** reads as under:-

"17..... 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 women or man who is a major, the couple is not harassed by anyone nor subjected to threats or acts of violence, and 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."

8. In the case of the petitioners there is no F.I.R. lodged. The police cannot be presumed to harass the petitioners only under the influence of the private respondent No.5. The action of Police is governed by the provision of Code of Criminal Procedure, 1973. Particularly, Chapter XII of the Code makes provision for information to Police and their power to investigate. In absence of any proof of such information regarding which the provision has been made under Section 154 and 155 of the Cr.P.C., it will not be justified to grant a blanket protection to the petitioners as prayed.

9. The petition is, therefore, **disposed of** with a direction to the petitioners that in case they are being threatened by their family members, they may file an application under Section 154(2) or 154(3) of the Cr.P.C. before the police station/Superintendent of Police concerned or move an application under Section 156(3) of the Cr.P.C. before the Magistrate concerned or file a complaint case under Section 200 of the Cr.P.C. before the authorities concerned.

[Ajai Kumar Srivastava-I,J.] [Attau Rahman Masoodi, J.]

Order Date :- 28.6.2024

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