

GAHC010168982023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4436/2023

NANDITA DAS AND ANR.
D/O DINESH DAS R/O KHALIDOZ ZAMAN CHOUDHURY R/O VILL.
DAKHIN DEBOSTHA P.O. DEBOSTHAN BAZAR P.S MURAJHAR DIST. HOJAI
ASSAM

2: KHALIDOZ ZAMAN CHOUDHURY
S/O JIAUL ISLAM CHOUDHURY R/O KHALIDOZ ZAMAN CHOUDHURY R/O
VILL. DAKHIN DEBOSTHA P.O. DEBOSTHAN BAZAR P.S MURAJHAR DIST.
HOJAI ASSA

VERSUS

THE STATE OF ASSAM AND 6 ORS.
THROUGH THE SECRETARY TO THE GOVT. OF ASSAM HOME AND
POLITICAL AFFARIS DEPTT. DISPUR GUWAHATI 781006

2:THE DIRECTOR GENERAL OF POLICE
ASSAM
PANBAZAR GUWAHATI 1 DITS. KAMRUP METRO

3:THE SUPERINTENDENT OF POLICE
TAMULPUR
DIST. TAMULPUR ASSAM

4:THE SUPERINTENDENT OF POLICE
HOJAI
DIST. HOJAI ASSAM

5:THE OFFICER IN CHARGE
TAMULPUR POLICE STATION DIST. TAMULPUR ASSAM

6:THE OFFICER IN CHARGE
MURAJHAR POLICE STATION DIST. HOJAI ASSAM

7:THE IN CHARGE
DEBOSTHAN POLICE OUT POST UNDER MURAJHAR POLICE STATION
DIST. HOJAI ASSA

Advocate for the Petitioner : MD. I HUSSAIN

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 04/08/2023

Heard Mr. I. Hussain, learned counsel for the writ petitioners. Also heard Mr. B. Deuri, learned Government Advocate, Assam, appearing on behalf of the official respondents.

The petitioner nos. 1 & 2 are both citizens of India and have attained majority. Their marriage had been registered under section 13 of the Special Marriage Act, 1954, where-after, a Certificate of Marriage dated 12/07/2022 has also been issued to them. However, based on an alleged missing complaint lodged at the instance of the family member of the petitioner no.1 i.e. the wife, the Tamulpur Police had issued summons to the petitioner no. 2 asking him to appear before the Tamulpur Police Station so as to record his statement.

Mr. Hussain, learned counsel for the petitioners submits that the petitioner no. 2 has been receiving constant threats to his life. Therefore, he is entertaining a genuine apprehension that if he goes to Tamulpur for recording his statement, not only would there be serious law and order problem but the same may also pose risk to his life.

Contending that the petitioners are ready and willing to cooperate with the Police, the petitioners' counsel submits that if the statement of the petitioner no. 2 is required to be recorded by the Police, the same be done either at Hojai or at any other neutral place, except Tamulpur, at the date and time chosen by the Police. The learned counsel for the petitioner has also argued that his clients have already submitted representation before the Director General of Police i.e. the respondent no. 2 as well as the Superintendent of Police, Tamulpur i.e. the respondent no. 3 but the same have failed to evoke any response. Hence this writ petition.

Mr. B. Deuri, learned Government Advocate, Assam, appearing for the official respondents submits that the Police will take appropriate action to protect the life and liberty of every citizens and,

therefore, there is no basis for apprehension expressed by the petitioner.

Be that as it may, after going through the materials on record, I find that it is a case of special marriage and, therefore, it is possible that family members of the petitioner no.1 i.e. the wife might have lodged the complaint with the Tamulpur Police. However, the petitioner nos. 1 & 2, both being major, they are entitled to enter into a matrimonial relationship as per their will and choice. Therefore, it will be the duty of the Police to extend protection to the life and liberty of the petitioners if any undue threat is received by them due to their inter-faith marriage.

As such, without expressing any further opinion in the matter, this writ petition stands disposed of by providing that the Police may consider recording the statement of the petitioners at a neutral place except in Tamulpur.

In doing so, prior notice be issued to the petitioner nos. 1 and 2, giving them at-least a week's time to appear for recording their statement. The Police may either record the statement of the petitioners at Hojai or at any other neutral place except in Tamulpur Police Station. In the process, the respondent no. 3 to 6 to ensure that the petitioners are not exposed to any undue risk to their life and liberty.

With the above observation, this writ petition stands disposed of.

JUDGE

sukhamay

Comparing Assistant