

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

LPA 269/2023 in[WP(C) 3226/2023] CM(8024/2023)

SHABIR AHMAD WANI ...Petitioner(s)/appellant(s)

Through: Mr. Mir Majid Bashir, Advocate

Vs.

UNION TERRITORY AND ORS ...Respondent(s)

Through:

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE M. A. CHOWDHARY, JUDGE

ORDER

22.12.2023

The present appeal has been filed against the order dated 13.12.2023 passed in WP(C) 3226/2023 in which the learned Single Judge has made observations on the basis of the record annexed to the writ petition that the petitioners-respondents 7 & 8 herein are major and have contracted marriage on 11.12.2023 according to Muslim Personal Law, Rites and Customs and as such, having attained the age of majority, they are entitled to marriage as per their wish and the police authorities are at liberty to provide protection to the respondents 7 & 8, if so approached. The writ court, while observing that the petitioners had not approached the concerned police station, disposed of the writ petition at the motion stage by providing that the official respondents shall look into the grievance of the petitioners-respondents 7 & 8 herein for providing them security.

2. It is the case of the appellant that he is the brother of the respondent No. 08 - Dilshada Bano and she had been kidnapped by respondent No. 07 and being apprehensive of her well-being, the appellant approached the concerned police station, Hajin by way of a complaint, however, they are not

entertaining the complaint of the appellant on the ground of the order of protection granted by the writ court on 13.12.2023 passed by the learned Single Judge. However, the perusal of the directions issued by the learned Single Judge, more particularly, at para 06 of the order dated 13.12.2023 would reveal that the learned Single Judge had made it clear that court had not expressed any opinion with regard to the validity of the marriage of respondents 7 & 8 and police is free to take a view on the basis of available material and make enquiry and if it is found that the parties have contracted their marriage as per their consent and free will, necessary protection shall be extended to them.

3. Perusal of the aforesaid directions and observations made by the writ court would indicate that the police is to make an enquiry on the basis of available material. In our view while making enquiry it would be incumbent upon the police to take into consideration the complaint filed by the appellant.

4. Accordingly, we are of the opinion that the present appeal can be disposed of at this stage without issuing notice to the private respondents by observing that since the learned Single Judge had expressed no opinion with regard to the validity of the marriage and that the police is free to take a view on the basis of material available and enquiry, the concerned police authorities while making enquiry shall also take into consideration the complaint made by the appellant.

5. With the above observations, the present appeal stands disposed of.

(M. A. CHOWDHARY)
JUDGE

(N. KOTISWAR SINGH)
CHIEF JUSTICE

SRINAGAR
22.12.2023
Aamir