

Court No. - 50

Case :- WRIT - C No. - 21975 of 2023

Petitioner :- Smt. Kavita And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Vivek Kumar Yadav

Counsel for Respondent :- C.S.C.

Hon'ble Ram Manohar Narayan Mishra,J.

The petitioners have preferred this writ petition for a direction upon the respondents not to interfere in their married life and also for protection of their lives and liberty.

The petitioners claim that they are major. Petitioner no. 1 was previously married with respondent no. 4, who was of same religion that of petitioner no. 1. The respondent no. 4 was a drunkard and used to beat her often under the influence of liquor. The petitioner no. 1 came in contact with petitioner no. 2 in the meanwhile and both of them developed intimacy with each other. The respondent no. 4 kept petitioner no. 1 out from his home and since 4 to 5 months before filing of present petition, petitioner no. 1 is living together at the place of petitioner no. 2.

Petitioner nos. 1 and 2 are living in live in relationship. In support of their age, the petitioners have brought on record their Aadhar cards; wherein, the date of birth of the petitioner no. 2 is shown as 1.1.1990 and that of petitioner no. 1 as 15.4.1989. Thus, it appears from the record that both the petitioners are major. Respondent no. 4, was averse to their live in relationship, however, till date no F.I.R. has been lodged against the petitioner no. 2. They have moved a joint affidavit in support of the pleadings made in the writ petition.

The petitioners have averred in the writ petition that that they have apprehension that private respondent can eliminate them for the honour of their family. In case this Court does not grant them protection, their lives may be endangered. The petitioner no. 1 also moved an application to the S.P. concerned for seeking protection but no action was taken thereon.

Heard learned counsel for the petitioners and learned Standing Counsel for the State - respondents.

Learned standing counsel submitted that this is admitted case that marriage of petitioner no. 1 with her husband, respondent no. 4, has not been dissolved as yet by the order of any competent court and the petitioners are said to have been living in live in relationship without getting divorce from her husband and therefore the relationship is illegal and the same cannot be protected under the law.

Considering the rival submissions of learned counsel for the parties and in the light of admitted position that marriage of petitioner no. 1 and respondent no. 4 is still subsisting in the eye of law and no declaration of divorce has been

passed by the competent court in relation to their marital relationship. The relationship of the petitioners cannot be held legal and the same cannot be protected in exercise of extra- ordinary jurisdiction of this Court as held by Division Bench of this Court in Writ-C No. 11295 of 2021, Smt. Premwati and another vs. State of U.P. and others wherein this Court observed as under:

"This Court has already disapproved such act in Writ-C No. 11295 of 2021, Smt. Premwati and another Vs. State of U.P. and others. We hold that we are not against granting protection to people who want to live together irrespective of the fact as to which community, caste or sex they belong to. If Devendra Kumar, who is legally wedded husband of petitioner no.1 has barged into the house of petitioner no.2, it is in the realm of criminal dispute for which she can move to the criminal machinery available in the country. But none law abiding citizen who is already married under the Hindu Marriage Act can seek protection of this Court for illicit relationship, which is not within the purview of social fabric of this country. The sanctity of marriage pre-supposes divorce. If she has any difference with her husband, she has first to move for getting separated from her spouse as per law applicable to the community if Hindu Law does not apply to her.

We do not permit the parties to such illegality as tomorrow petitioners may convey that we have sanctified their illicit relations. Live-in-relationship cannot be at the cost of social fabric of this Country. Directing the police to grant protection to them may indirectly give our assent to such illicit relations."

The writ petition is dismissed.

However, the petitioners are at liberty to seek remedy before the appropriate forum as available under the law.

Order Date :- 16.10.2023

Dhirendra/