Court No. - 50

Case :- WRIT - C No. - 29971 of 2023

Petitioner :- Smt. Kamna And Another
Respondent :- State Of U.P. And 3 Others
Counsel for Petitioner :- Amrit Shanker Dubey
Counsel for Respondent :- C.S.C.

Hon'ble Ram Manohar Narayan Mishra,J.

1. Instant civil misc. writ petition under Article 226 of the Constitution has been filed by the petitioners with the following prayer:-

"i) issue a writ, order or direction in the nature of mandamus directing and commanding the respondent no. 1 to 3 not to interfere in peaceful marriage life of the petitioners in any manner.

(ii) issue a writ, order or directing in the nature of mandamus directing and commanding the respondent no. 1 to 3 to secure the personal life of the petitioners from respondent no. 4 and his associates."

2. Heard learned counsel for the petitioners, learned Standing Counsel for State-respondents and perused the record.

3. Learned counsel for the petitioners submitted that both the petitioners have solemnized their marriage out of their free will and choice as well as driven by love affairs on 22.08.2023 at Arya Samaj Krishn Nagar, Prayagraj after attaining the age of majority and consent for marriage. A certificate of same is annexed as Annexure No. 3 to the writ petition. Thereafter, they have applied on-line for registration of their marriage. The date of birth of petitioner No.1 is recorded as 03.08.2005 and that of petitioner No. 25.12.2000 in their respective High-School Marksheets. They have also filed a joint affidavit in support of their pleadings made in present petition and therefore, there is no legal impediment in their marriage.

4. Learned counsel for the petitioners have averred in the writ petition that they are living as wife and husband and their relationship is not relished and agreed by respondent No.4, who is father of petitioner No. 1. He is regularly hurling threats to the

petitioners of dire consequences and is interfering in peaceful marital life of the petitioners in collusion with local police. They apprehend danger to their life and liberty from respondent No. 4. It is stated 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. Petitioner No.1 had moved an application before respondent No. 2, S.P. Firozabad on 24.08.2023 seeking protection for herself and petitioner No. 2, but no action has been taken.

5. Learned Additional Chief Standing Counsel raised objection on contention made by learned counsel for the petitioners.

6. In view of the order proposed to be passed, there is no need to issue notice to the private respondent. With the consent of learned counsel appearing for the parties, this writ petition is being disposed of finally at this stage in terms of the Rules of the Court.

7. The Supreme Court in a long line of decisions has settled the law that where a boy and a girl are major and they are living with their free will, then, nobody, including their parents, has authority to interfere with their living together. Reference may be made to the judgements of the Supreme Court in the cases of ***Gian Devi v. The Superintendent, Nari Niketan, Delhi and others, (1976) 3 SCC 234***; ***Lata Singh v. State of U.P. and another, (2006) 5 SCC 475; and Bhagwan Dass v. State (NCT of Delhi), (2011) 6 SCC 396***, which have consistently been followed by the Supreme Court and this Court in ***Deepika and another v. State of U.P. and others, 2013 (9) ADJ 534***. The Supreme Court in Gian Devi (supra) has held as under:

"7. ... Whatever may be the date of birth of the petitioner, the fact remains that she is at present more than 18 years of age. As the petitioner is sui juris no fetters can be placed upon her choice of the person with whom she is to stay, nor can any restriction be imposed regarding the place where she should stay. The court or the relatives of the petitioner can also not substitute their opinion or preference for that of the petitioner in such a matter."

8. Having regard to the facts and circumstances of the case, I am of the view that the petitioners are at liberty to live together and no person shall be permitted to interfere in their peaceful living. In case any disturbance is caused in the peaceful living of the petitioners, the petitioners shall approach the Superintendent of Police concerned, with a copy of this order, who shall provide immediate protection to the petitioners.

9. A liberty is granted to the private respondent that if the documents brought on the record are fabricated or forged, it will be open for the respondent to file a recall application for recall of this order.

10. The petitioners undertake to get their marriage registered under "Uttar Pradesh Marriages Registration Rules, 2017" within a period of two months. If the petitioners could not get their marriage registered within the stipulated period herein above, the protection granted under this order shall stand automatically vacated.

11. It is made clear that this Court has not adjudicated upon the alleged marriage of the petitioners and this order, in no way, expresses opinion about the validity of their marriage.

12. Therefore, the protection order in the nature of mandamus is issued to respondent numbers 2 and 3 to secure life and liberty of petitioners.

13. With the aforesaid observations, the writ petition is **disposed of**. No order as to costs

Order Date :- 19.10.2023
Nitika Sri.

Digitally signed by :-
NITIKA SRIVASTAVA
High Court of Judicature at Allahabad