

Court No. - 85

Case :- WRIT - C No. - 32333 of 2023

Petitioner :- Anjali Devi And Another

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Akhilesh Kumar Tiwari

Counsel for Respondent :- C.S.C.

Hon'ble Mayank Kumar Jain,J.

1. Heard learned counsel for the petitioners, Mr. Ashwani Kumar Tripathi, learned A.C.S.C. for the State and perused the record.

2. The present writ petition has been filed with following main relief:-

"(i) Issue a writ, order or direction in the nature of mandamus commanding the respondent Nos. 4 to 7 not to interfere in peaceful live-in-relationship of the petitioners.

(ii) issue a writ, order or direction in the nature of mandamus commanding the respondent Nos. 2 and 3 to provide the safety and security of the petitioners."

3. It is submitted by learned counsel for the petitioners that both the petitioners are major and living together in relationship. Earlier an F.I.R. was lodged by the mother of the petitioner No. 1 against petitioner No. 2 on 20.6.2023 with allegations of abduction of petitioner No. 1 bearing Crime No. 367 of 2023 under Sections 363, 366 I.P.C., P.S. Khutar District- Shahjahanpur in which the statement of petitioner No. 1 was recorded under Section 161 and 164 Cr.P.C. and she stated that she accompanied with the petitioner No. 2 with her own sweet will and she wants to live with petitioner No. 2.

4. It is also submitted that an application has been given to police authority for protection but no action was taken. Pursuant to the order dated 28.10.2023 supplementary affidavit has been filed which is taken on record today and in which it is stated that as a result of flow she has by mistake stated under section 164 Cr.P.C. that she has got married with the petitioner No. 1.

5. Per contra, learned Standing Counsel has submitted that petitioner No. 1 during her statement under Section 164 Cr.P.C. has stated that she has performed court marriage with petitioner

No. 2 and she wanted to live with him. She was having love affair with him and now she has performed marriage with him. It is further submitted that since petitioner No. 1 has stated she has performed court marriage to petitioner No. 2 therefore no protection for live-in-relationship is granted.

6. Sri Ashwini Kumar Tripathi, learned A.C.S.C. submitted that this matter is squarely covered by judgement of this Court passed in ***Criminal Misc. Writ Petition No. 3310 of 2023, Kiran Rawat And Another Vs. State of U.P. Thru. Secy. Home, Lko. And Others, reported in 2023 SCC Online All 323.***

7. The Hon'ble Apex Court in Kiran Rawat and Another vs. State of U.P. (Supra) observed that:-

"21. However, in Muslim law no recognition can be given to sex outside marriage. "Zina" which has been defined as any sexual intercourse except that between husband and wife includes both extramarital sex and premarital sex and is often translated as fornication in English. Such premarital sex is not permissible in Islam. In fact any sexual, lustful, affectionate acts such as kissing, touching, staring etc. are "Haram" in Islam before marriage because these are considered parts of "Zina" which may lead to actual "Zina" itself. The punishment for such offence according to Quran (chapter 24) is hundred lashes for the unmarried male and female who commit fornication together with the punishment prescribed by the "Sunnah" for the married male and female that is stoning to death." It is observed that in muslim law live-in-relationship is not permitted. At one hand this fact is brought on record by petitioner No. 1 in statement recorded under section 164 Cr.P.C. that she had performed court marriage with the petitioner No. 2 on the other hand present petition has been filed seeking protection against live in relationship.

8. In the case in hand the petitioner No. 1 is Hindu by religion and petitioner No. 2 is a Muslim. Petitioners have claimed protection by saying that they are living in relationship with each other. The matter is squarely covered by the case of Kiran Rawat and others vs. State of U.P. (Supra). Therefore, the writ petition is liable to be dismissed.

9. The writ petition is dismissed, accordingly.

Order Date :- 9.11.2023
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