

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 15186 of 2023

Petitioner :- Ravish Kumar @ Veetu And Another

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

Counsel for Petitioner :- Narayan Singh(Kushwaha)

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Shri Narayan Singh Kushwaha, learned counsel for the petitioners, Shri Ratan Singh, learned A.G.A. for the State-respondents, and perused the record.

2. This writ petition has been filed praying to quash the First Information Report dated 11.7.2023, registered as Case Crime No.119 of 2023 under Sections 363, 366 IPC, P.S. Nidhauri Kalan, District Etah, and not to arrest the petitioners pursuant to the said FIR.

3. Learned counsel for the petitioners submitted that no offence as alleged is made out as the petitioner no.2 is a major girl and the entire criminal case lodged by the informant is nothing but an abuse of the process of the law. It is further submitted that as per Aadhar Card, date of birth of the petitioner no.1- Ravish Kumar @ Veetu is 1.1.1999 and the date of birth of the petitioner no.2- Sangeeta Kumari is 7.3.2005 and as such, the petitioner nos.1 & 2 are major on the date of incident and they have married on their sweet will and no offence has been committed. By drawing attention to Annexure-5 to the petition, it is submitted that they have applied online for registration of their marriage.

4. Per contra, learned AGA on instructions submits that as per prosecution version, the girl- petitioner no.2 is a minor on the date of incident.

5. At this stage, learned counsel for the petitioners has placed reliance upon a judgment of Hon'ble Supreme Court in the case of ***Suhani vs. State of U.P.*** reported in 2018 0 Supreme (SC) 1430 and judgement dated 18.7.2023 passed in **Criminal Appeal No. 1898 of 2023 (P. Yuvaprakash vs. State Rep. by Inspector of**

Police) submits that in all such matters Hon'ble Apex Court has directed for age determination test of the girl.

6. In view thereof, we direct that the petitioner no.2-Smt. Sangeeta @ Sangeeta Kumari be produced before the Magistrate concerned, for recording her statement under section 164(1) and (5) of Cr.P.C. and thereafter, she shall be brought before the Chief Medical Officer concerned by the I.O. of the case who shall constitute a panel of three doctors, for her age determination test (ossification test). Both these exercises must conclude on or before 6.12.2023 or within six weeks from today.

7. It is incumbent upon the petitioners to provide all necessary assistance to the Investigation Officer during investigation, however, the petitioners shall not be arrested during this period.

8. The arrest of the petitioners shall be subject to the 164 Cr.P.C. statement of the girl and her age.

9. In the event, if it is found that she had attained the age of majority and her 164 Cr.P.C. statement favours the petitioner no.1, then the petitioners shall not be arrested till the submission of report by the police under section 173(2) Cr.P.C. OTHERWISE, the procedure of law would follow against the petitioners and the protection given to the petitioners would automatically stands vacated.

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

Order Date :- 19.10.2023

Anil K. Sharma