

Court No. - 85

Case :- WRIT - C No. - 37747 of 2023

Petitioner :- Ruksar And Another

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

Counsel for Petitioner :- Mohd. Shahibe Alam

Counsel for Respondent :- C.S.C.

Hon'ble Mayank Kumar Jain,J.

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

By means of the present writ petition, the petitioners have prayed for a direction in the nature of mandamus commanding and directing the respondent no. 4 not to harass them and interfere in their peaceful living with his own free will and choice and further commanding and directing the respondent nos. 2 and 3 to protect the life of the petitioners from respondent no. 4.

It is submitted that petitioner no. 1 and petitioner no. 2 are major as per their Aadhar Card. They are living together in live-in relationship, they are threatened by respondent no. 4 into their peaceful living. Therefore, respondent no. 4 may be directed not to interfere in the peaceful living of the petitioners.

Per contra, Learned Standing counsel submits that in her application given to the police authorities the petitioner no.1 has disclosed that her husband Abid is against her relation with petitioner no.2. The husband of the petitioner no. 1 has also arrayed as respondent no.4. It is also submitted that no averment is made about these facts in the main petition filed by the petitioners. Further, no status of divorce is also brought on record and the matter is squarely covered with the Judgement of **Asha Devi Vs. State of U.P. 2021 (1) AWC page 519.**

This Court in **Asha Devi (supra)** has observed that:-

"Act of petitioners constitutes offence under Sections 494, 495 I.P.C., therefore, such relationship does not fall within the phrase 'live in relationship' or 'relationship in the nature of marriage'. The jurisdiction of this Court under Article 226 is discretionary and mandamus can be issued for petitioner has legal right to performance of legal duty."

Since, in the present case petitioner no.1 is married with respondent no.4 and no status is brought on record as to whether

the marriage of the petitioner no.1 has been dissolved with respondent no. 4, therefore, the petitioners are not entitled for any relief.

Hence, this writ petition is accordingly **dismissed**.

Order Date :- 9.11.2023/AKT