

Court No. - 67

Case :- CRIMINAL MISC. WRIT PETITION No. - 17406 of 2023

Petitioner :- Smt. Swati And 3 Others

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Bhuvnesh Kumar Singh

Counsel for Respondent :- G.A., Sandip Kumar Pandey

Hon'ble Rahul Chaturvedi, J.

Hon'ble Syed Qamar Hasan Rizvi, J.

Heard Shri Bhuvnesh Kumar Singh, learned counsel for the petitioners and Shri Sandip Kumar Pandey, learned counsel for opposite party No. 3 as well as learned A.G.A.

By means of the present petition, the petitioners are assailing the legality and validity of the F.I.R. dated 20.10.2023 registered as case crime No. 772 of 2023, under Section 366 IPC, police station Chandpur, district Bijnor.

Learned counsel for the petitioners submits that the petitioners are happily married persons and the present F.I.R. has been lodged by Atar Singh accusing the petitioner No. 2 for the alleged act of enticement of his daughter. Contention raised by the counsel is that as per the high school certificate the date of birth of the victim is 7.2.2003, and as such, both the petitioners are major and performed their marriage on 26.10.2023. The marriage certificate of Arya Samaj Krishna Nagar, Prayagraj is annexed as annexure No. 3 to the writ petition. She is a major girl and has got every right to choose her partner and she has chosen petitioner No. 2 as her life partner. In paragraph No. 10 of the writ petition, it has been specifically averred that this is the first marriage of both the petitioners. Further submission is that pursuant to the present F.I.R. the police personal are harassing the petitioners, who are the legally wedded husband and wife.

It is contended by learned counsel for the petitioners that the petitioners are ready to participate in the investigation provided the interest of the petitioners is protected.

Under the circumstances, the interest of the petitioners in pursuance of 20.10.2023 as case crime No. 772 of 2023, under Section 366 IPC, police station Chandpur, district Bijnor is protected and petitioners shall not be arrested during

investigation or till the submission of the report under section 173(2) Cr.P.C. The parties shall appear before the I.O. of the case on 20.11.2023.

The copy of this order will be served by 30th of November, 2023 upon the Investigating Officer, who shall conduct impartial and transparent investigation and submit report within a period of 90 days from the date of production of certified copy of this order.

However, this interim protection granted to the petitioners shall be operative till the submission of police report under Section 173(2) Cr.P.C.

It is incumbent upon the petitioners to actively participate in the investigation and shall remain present before the Investigating Officer, as and when required by him for the purposes of investigation.

With this observation, the present petition stands disposed of.

Order Date :- 20.11.2023

Sumaira