

Court No. - 84

Case :- WRIT - C No. - 40444 of 2023

Petitioner :- Smt. Sonam And Another

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

Counsel for Petitioner :- Ajay Nand Pandey, Abhishek Srivastava

Counsel for Respondent :- CSC

Hon'ble Mohd. Azhar Husain Idrisi, J.

1. Heard learned counsel for the petitioners and the learned Standing Counsel for the State. Perused the record.

2. By means of the present petition under Article 226 of the Constitution of India, the petitioners, namely, Smt. Sonam and Mohit Rathi have sought following main prayer:

"i) Issue a writ, order or direction in the nature of mandamus commanding/directing the respondent nos. 2 & 3 to protect the peaceful conjugal life and liberty of the petitioners and further be pleased to direct the respondent nos. 2 & 3 to ensure the respondent no. 4 and other relatives may not interfere in the peaceful conjugal life of the petitioners

ii) Issue a writ, order or direction in the nature of mandamus commanding/directing the respondent no. 3 not to raid and harass the petitioners on the instance of respondent no. 4."

3. Petitioners have filed a joint affidavit in support of the averments of the petition.

4. The submission of the learned counsel for the petitioners is that according to Adhar Card, the date of birth of petitioner no.1-Smt. Sonam is 10.6.1999 and thus, she is major aged about 24 years. The petitioner no.2-Mohit Rathi is major as his date of birth is 22.12.1997 according to High School Certificate-cum-Marksheet. It is further submitted that both the petitioners are major and well known to each other since last three years, By the efflux of time intimacy was developed in between them and they fallen in love and affection to each other. Petitioner no. 1 has solemnized marriage according to Hindu Rites and Rituals with petitioner no. 2 at Arya Samaj Mandir Greater Noida, Gautam Budh Nagar, U.P. on 16.11.2023. Not only this, they had applied for registration of their marriage on line, which was successful on 16.11.2023, a copy of which has been annexed as Annexure-No. 4 to this writ petition.

It is also submitted that it is their first marriage. Since then they are living happy marital life. It is also urged that it is their first marriage. Till date, neither any FIR has been lodged nor any other criminal proceeding has been initiated against petitioner no. 2.

5. Learned counsel for the petitioners has further submitted that when respondent no. 4, the mother of petitioner no. 1 came to know about the marriage of her daughter (petitioner no. 1) with the petitioner no. 2 she became annoyed with petitioner no. 2 and started undue harassment and torture against petitioner no. 2 and his family members. She also filed complaint making false and frivolous allegations against them.

6. Learned Standing Counsel refuted the submissions made by the learned counsel for the petitioners, but could not deny the facts and law in this behalf.

7. In view of the order proposed to be passed, there is no need to issue notice to 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.

8. 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, as well as of 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."

9. Keeping in view the above facts and circumstances of the case, this Court is of the view that the petitioners are at liberty to live together and no person shall be permitted to interfere in their

peaceful living.

10. Respondent no. 4 is directed not to create any hindrance in the conjugal life of the petitioners. In case any disturbance is caused in the peaceful living of the petitioners, the petitioners shall approach the Senior Superintendent of Police, Muzaffar Nagar i.e., respondent no.2, with a certified copy of this order, who shall provide immediate protection to the petitioners.

11. A liberty is granted to the respondent no. 4 that if the documents brought on the record are fabricated or forged, it will be open to him to file a recall application for this order.

12. It is also 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.

13. With the aforesaid observations/directions, the writ petition is finally **disposed of**.

Order Date :- 2.12.2023

M. Tarik