

Court No. - 9

Case :- CRIMINAL MISC. WRIT PETITION No. - 4442 of 2023

Petitioner :- Soni Devi And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Home Civil Sectt. Lko. And Others

Counsel for Petitioner :- Ram Milan Yadav,Om Prakash Yadav

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

Hon'ble Umesh Chandra Sharma,J.

1. Learned counsel for the petitioners is permitted to correct the description of petitioner No. 2 in the array of parties during the course of the day.

2. Heard Shri Ram Milan Yadav, the learned counsel for the petitioners and Shri Pawan Kumar Mishra, the learned A.G.A for the State.

3. The present writ petition has been filed with the following prayer:

*"(a) Issue a writ in the nature of Certiorari hereby quash the impugned F.I.R. lodged in Case crime no. 0241 / 2023 dated 15.5.23 under section 366 I.P.C., Police Station- Sandi, District- Hardoi to the extent of petitioner no. 2 contained in **annexure No. 1** to this writ petition, in the interest of justice.*

*(b) Issue a writ, order or direction in the nature of mandamus commanding the opposite parties no. 1 to 3 not to arrest the petitioners on the basis of the impugned F.I.R. lodged in Case crime no. 0241/ 2023 under section 366 I.P.C., Police Station - Sandi, District - Hardoi contained in **annexure No. 1** to this writ petition in the interest of justice.*

(c) Issue a writ of mandamus commanding the opposite party no. 2 to provide protection to the life and personal liberty of the petitioners and also direct the opposite party no. 4 not to interfere in the personal life of the petitioners, in the interest of justice.

(d) Any other order or direction may also be passed as this Hon'ble Court deems fit in the interest of justice.

(e) The cost of the petition may also be allowed."

4. Learned counsel for the petitioners submits that petitioners have already solemnized marriage with each other and they are major, but the respondent No. 4 who is the father of the girl is not happy with their marriage and has lodged the first information report on 15.05.2023 under Section 366 I.P.C. against the petitioner No. 2-Vimlesh @ Vimal and one Mithilesh, on account of which police is harassing them and is adamant to arrest the petitioner No. 2.

5. Learned A.G.A. submits that from the documents annexed as well as the averments made in the writ petition it appears that both the petitioners are major, have solemnized marriage on their own volition and are living as husband and wife, therefore, they may be given protection as has been held by Hon'ble Supreme Court in the case of **Lata Singh Vs. State of U.P. & another : 2006 AIR SCW 3499**.

6. After considering the submissions as advanced by the learned counsel for the parties and after perusal of record, it appears that both the petitioners are major, have married with each other on their own volition and they are living together as husband and wife, but as there is a first information lodged against the petitioner No. 2, we direct that no coercive action shall be taken against the petitioners herein pursuant to the impugned F.I.R. till the submission of police report under Section 173(2) Cr.P.C., provided petitioners will cooperate in the investigation and they shall also cooperate with the Investigating Officer for recording of statements of the girl under Sections 161 and 164 Cr.P.C. as also for her medical examination for determination of her age.

7. With the above direction/ observation, the present writ petition is finally **disposed of**.

Order Date :- 8.6.2023

Mustaqeem