

Court No. - 9

Case :- CRIMINAL MISC. WRIT PETITION No. - 4459 of 2023

Petitioner :- Dharmendra Yadav And Another

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

Counsel for Petitioner :- Tajdar Ahmad, Gyan Sagar Gupta

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed, J.

Hon'ble Umesh Chandra Sharma, J.

1. Heard Shri Tajdar Ahmad, the learned counsel for the petitioners and Shri Badrul Hasan, the learned A.G.A.-I for the State.

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

*"(a) Issue a writ, order or direction in the nature of Certiorari quashing the impugned First Information Report dated 31.5.2023 lodged by the opposite party no. 4 in Case Crime No. 0085 of 2023 under Section 366 I.P.C. at Police Station- Raheemabad, District- Lucknow contained in **Annexure No. 1** to this writ petition.*

*(b) Issue a writ, order or direction in the nature of Mandamus commanding and directing the opposite parties not to arrest the petitioner no.1 in pursuance of the impugned First Information Report dated 31.5.2023 lodged by the opposite party no. 4 in Case Crime No. 0085 of 2023 Under Section 366 I.P.C. at Police Station- Raheemabad, District- Lucknow contained in **Annexure No. 1** to this writ petition.*

(c) Issue a writ, order or direction in the nature of Mandamus thereby commanding and directing the opposite parties not to harass the petitioners or the family members of the petitioner no. 1 and not to disturb the peaceful happy married life of the petitioners in the light of judgment passed by the Hon'ble Apex Court in the case of Lata Singh.

(d) Issue any other writ, order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the case.

(e) Allow the writ petition with cost in favour of the petitioners."

3. 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 31.05.2023 under Section 366 I.P.C. against the petitioner No. 1-Dharmendra Yadav, on account of which police is harassing them and is adamant to arrest the petitioner No. 1.

4. Learned A.G.A.-I 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**.

5. 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. 1, 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.

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

Order Date :- 9.6.2023

Mustaqeem