Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 6260 of 2023

Petitioner :- Vikas And Another
Respondent :- State Of U.P. Thru. Secy. Home Civil Sectt. Lko And Others
Counsel for Petitioner :- Rizwanul Haque Ansari,Mohd Javed
Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.
Hon'ble Narendra Kumar Johari,J.

Heard learned counsel for the petitioners, learned A.G.A. for the State/Respondents and perused the record.

This Court had passed a detailed order on 10.08.2023 which is quoted herein below :-

"1. Heard learned counsel for the petitioners and learned A.G.A. who appears on behalf of the State Respondents.

2. This petition has been filed with the following main prayer :-

"i. issue a writ, order or direction in the nature of Certiorari, quashing the impugned F.I.R. dated 02.08.2023 registered with police station- Rampur Mathura, District- Sitapur at Case Crime No. 218/2023, U/s-366 IPC, Contained as Annexure No. 1 to this petition."

3. It has been submitted by the learned counsel for the petitioners that the petitioners are major and have married each other out of their own free will. The impugned F.I.R. had been lodged by a person who alleges to be a husband of the petitioner no. 2, although, the petitioner no. 2 never got married to him.

4. Initially, an F.I.R. was lodged by the father of the petitioner no. 2 alleging that the petitioner no.1 had eloped with his daughter. After Section 164 of the Cr.P.C. statement was recorded by the petitioner no. 2, the Magistrate found her to be major and therefore, passed an order on 14.06.2023 that she being major is free to marry anyone she wishes, a copy of the order dated 14.06.2023 has been filed herewith as annexure to the petition.

5. Learned A.G.A. shall seek instructions specifically with

regard to the contention of the petitioner no. 2 that she did not marry the complainant, Sri Ram Nivas Yadav at any point of time, and the entire allegations of the complainant as made in the F.I.R. is false.

6. List this case on 22.08.2023."

Learned A.G.A. has produced before this Court instructions sent by Investigating Officer, Police Station - Rampur Mathura, District - Sitapur wherein it has been stated that on the statement of the petitioner No.2, Smt. Manju Devi, who was the alleged victim in Case Crime No.140/2023, under Section 363/366 IPC, Police Station Rampur Mathura, District - Sitapur, the Magistrate has passed the order dated 14.06.2023, finding the petitioner No.2 to be major and, therefore, entitled to live with any person she wishes. However, the learned A.G.A. has pointed out that now the opposite party No.4, who is the husband of the petitioner No.2 has lodged the impugned F.I.R. saying that his wife has eloped with petitioner No.1.

In so far as the elopement is concerned, it cannot be said that it was forcible but the fact remains that now petitioner No.1 and petitioner No.2 have married each other at Arya Samaj Mandir, Sanskrit Nagar, Lucknow on 02.08.2023, a copy of certificate issued by the Arya Samaj Mandir has been filed as Annexure No.2 to the writ petition, petitioner No.2 already married could not have married the petitioner No.1 without first being legally divorced from him. An offence under Section 494 IPC is made out.

Instructions are kept on record.

The writ petition is **disposed of**, leaving it open to the petitioners to approach the appropriate court for redressal of their grievance.

Order Date :- 4.12.2023

ML/-

Digitally signed by :-
MUNNA LAL
High Court of Judicature at Allahabad,
Lucknow Bench