

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 7296 of 2023

Petitioner :- Mohd. Anns Khan And Another

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

Counsel for Petitioner :- Alok Kirti Mishra,Rupa Singh

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Karunesh Singh Pawar,J.

1. Heard learned counsel for the petitioners and learned A.G.A. for the State-respondent.

2. This Court had earlier passed an order on 25.09.2023 which is being quoted hereinbelow:-

"Heard learned counsel for the petitioners and learned A.G.A.

This petition has been filed praying the following reliefs:-

"I. Issue a writ, order or direction in the nature of certiorari thereby quashing the impugned first information report lodged on 29.08.2023 at F.I.R./Case Crime No.-0189 of 2023, under Section 363 I.P.C., Police Station - Dhammaur, District - Sultanpur, contained as Annexure No.1 to the writ petition.

II. Issue a writ, order or direction in the nature of mandamus commanding the opposite party No.-3 and 4, not to disturb in peaceful living the petitioner."

It has been submitted by learned counsel for the petitioners that the petitioner no. 1 had merely given shelter to the petitioner no. 2, who is 17 years old and her step mother want to get her marry to an older person. Such doubt has been made without any ill intention.

Learned A.G.A. shall seek instruction with regard to the current status of the facts mentioned in paragraph nos. 7, 8 and 9.

List this petition on 9th of October, 2023 as fresh.

Till the next date of listing or till filing of the police report under

Section 173 (2) Cr.P.C., petitioners shall not be arrested in pursuance to the impugned First Information Report subject to the co-operation of the petitioners in the ongoing investigation."

3. Thereafter when the matter was taken up on 09.10.2023, the petitioners had informed this Court that they had gone to the police station concerned and handed over the victim to the police on 06.10.2023.

4. This Court has perused the instructions sent by the Sub Inspector Police Station Dhammaur, Sultanpur wherein it has been stated that on the basis of educational certificates i.e. High School pass certificate, the date of birth of the victim was 18.05.2006 and she was 17 years 3 months old at the time of the incident therefore, Section 16/17 of the POCSO Act has been added. The victim had been produced before the Child Welfare Committee, Sultanpur and on the basis of the statement of the victim she has been sent to the Rajkiya Balgrah (Balika) Para Sindhi Kheda, Lucknow.

5. If the petitioners aggrieved by the order passed by the CWC, they will have to challenge such order before the appellate authority under the Juvenile Justice Act, 2015. The petition insofar as the quashing of the F.I.R. is concerned, cannot be pursued further by the petitioners as it appears that the victim has not supported the petitioners and has chosen to go to Rajkiya Balgrah.

6. The petition stands disposed of.

Order Date :- 12.10.2023

Saurabh Yadav/-