

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 7882 of 2023

Petitioner :- Sristi Pandey And Another

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

Counsel for Petitioner :- Gaurav Shukla

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

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 prayers:-

"(i.) issue, a writ order or direction in the nature of Mandamus directing the opposite parties no.2 and 3 not to arrest the petitioners or adopt any coercive measures against the petitioners and not to take petitioner no.2 in custody, if any frivolous first information report is lodged against petitioner no.2 or his family members by opposite party no.4.

(ii) Issue a writ, order or direction in the nature of mandamus directing the opposite party no.2 and opposite party no.3 to provide Police Protection against the threats given by opposite party no.4 and his family members.

(iii) Issue a writ, order or direction in the nature of mandamus directing the opposite party no.4 not to force or compel petitioner no.1 to marry with the person of his choice without her consent.

(iv) Issue a writ, order or direction in the nature of mandamus directing opposite party no.2, opposite party no.3 and opposite party no.4 not to harass petitioners through phone calls or in person and let petitioner no.1 and petitioner no.2 live their life according to their own wish, without any threats and compulsion."

(3) It has been submitted by learned counsel for the petitioners that petitioner no.1 and petitioner no.2 are both major, who on their own volition and free will have got married out of their own sweet will with each other in accordance with Hindu rites and rituals, but the family members of petitioner no.1 are unhappy to such marriage. They are being harassed by the opposite party no.4, who is the father of the petitioner no.1. They therefore pray for the benefit of the judgement rendered by the Hon'ble Supreme Court in the case of **Lata Singh Vs.**

State of U.P. and another, 2006 (5) SCC 475 and the observations made in paragraph 17 which reads as under:-

"17..... We, therefore, direct that the administration/police authorities throughout the country will see to it that if any boy or girl who is a major undergoes inter-caste or inter-religious marriage with a women or man who is a major, the couple is not harassed by anyone nor subjected to threats or acts of violence, and anyone who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law."

(4) This Court has found from the perusal of judgement rendered in **Lata Singh Vs. State of U.P. and another, 2006 (5) SCC 475**, wherein the appellants had approached the Supreme Court against the police harassment because of F.I.R. being lodged by the brother of appellant no.1.

(5) In the case of the petitioners, there is no F.I.R. lodged. The police cannot be presumed to harass the petitioners only under the influence of the private respondent no.4. The action of Police is governed by the provision of Code of Criminal Procedure 1973. Particularly, Chapter XII of the Code makes provision for information to police and their power to investigate. In absence of any proof of such information regarding which the provision has been made under Section 154 and 155 Cr.P.C., it will not be justified to grant a blanket protection to the petitioners as prayed.

(6) The Court does not recognize such live in relationship and in case, the petitioners are genuinely threatened by opposite parties no.4 and they have been beaten the opposite party no.4 then the petitioners has remedy to lodge FIR under Sections 154 Cr.P.C. or a complaint under Section 156(3) Cr.P.C. or Section 200 of the Cr.P.C.

(7) This writ petition is **disposed of** with a direction to the petitioners that in case they are being threatened by their family members they may file an application under Section 154(2) or 154(3) of the Cr.P.C. before the Police Station/Superintendent of Police concerned, or move an application under Section 156 (3) before the Magistrate concerned or file a complaint case under Section 200 of the Cr.P.C. before the authorities concerned.

Order Date :- 11.10.2023

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