

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8553 of 2023

Petitioner :- Nanhi And Another

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

Counsel for Petitioner :- Avnish Kumar Tiwari

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

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

This petition has been filed with the following main prayers:-

"I. Issue a writ, order or direction in the nature of mandamus commanding the opposite parties not to interfere in peaceful married life of the petitioners, who are major in age and who are living together after solemnized marriage on 30.8.2023 out of their own free will."

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 on 30.08.2023, 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.

It has been further submitted that the petitioner have got married each other at Saubhagya Luxmi Sewa Sansthan, Registration No. 1820, Head Quarter-Subhash Nagar, Hardoi. The copy of the certificate issued by the said Sansthan has been annexed as Annexure- 1 to the writ petition. He further submitted that they therefore prayed 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."

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 petitioner had approached the Supreme Court against the police harassment because of F.I.R. being lodged by the brother of appellant no.1. In the case of the petitioner there is no F.I.R. lodged. The police cannot be presumed to harass the petitioner only under the influence of the private respondent.

This Court is of the opinion that the aforesaid Sansthan i.e. Saubhagya Luxmi Sewa Sansthan could not performed the marriage of the petitioners. It is perhaps a registered society and no registered society except Arya Samaj to the best of knowledge of the Court has been authorized to conduct Hindu weddings and issue certificate.

The petitioner are directed to marry each other in the Arya Samaj Mandir or in accordance with the other personal rites and also get the marriage registered under the U.P. Marriage Registration Rules.

This writ petition is **disposed of** with a direction to the petitioners that in case they have 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 to move an application under Section 156 (3) before the Magistrate concerned and or file a complaint case under Section 200 of the Cr.P.C. before the authorities concerned.

Order Date :- 7.11.2023

Anuj Singh