

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9173 of 2023

Petitioner :- Niteesha And Another

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Of Home Lko And Others

Counsel for Petitioner :- Amar Nath Dubey, Neetendra Singh

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra, J.

Hon'ble Narendra Kumar Johari, J.

This Court had passed a detailed order on 2.12.2023, which is quoted hereinbelow:-

Heard learned counsel for the petitioners, learned A.G.A. for the State/respondents and perused the material placed on record.

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

"(i) Issue a writ, order or direction in the nature of Certiorari quashing the impugned First Information Report dated 18.11.2023, lodged by the opposite party no.3 in F.I.R. No.178/2023, under Sections 363, 366 I.P.C., Police Station - Delhupur, District - Pratapgarh, so far related to the petitioner No.2, as contained in Annexure No.1 to this writ petition.

(ii) Issue a writ, order or direction in the nature of Mandamus commanding the opposite parties no.1 and 2, not to arrest the petitioners in F.I.R. No.178/2023, under Sections 363, 366 I.P.C., Police Station - Delhupur, District - Pratapgarh, in the interest of justice.

(iii) Issue a writ, order or direction in the nature of Mandamus commanding the opposite parties, not to harass and create any hindrance in the peaceful marital life of the petitioners in the light of provisions and directions issued by the Hon'ble Supreme Court in case of Lata Singh Versus State of U.P. and others, reported in 2006 (5) SCC 475.

Learned A.G.A. shall seek instructions in the matter with regard to the educational documents, if any, produced by the informant in support of his claim that the petitioner No.1 is minor.

List this case on 8th December, 2023, as fresh.

Till the next date of listing, petitioner No.2 shall not be arrested in pursuance to the impugned First Information Report dated 18.11.2023, lodged by opposite party no.3, which is registered as F.I.R./Case Crime

*No.178/2023, under Sections 363, 366 I.P.C., Police Station - Delhupur,
District - Pratapgarh."*

Learned A.G.A. has produced before this Court instructions enclosing copy of the case diary wherein the educational documents submitted by the informant in support of his claim of the petitioner being minor have been enclosed. The progress report of the class III of Prathmik Vidyalaya Kushbhara, Development Block- Sadar, Pratapgarh shows her date of birth as 2.1.2008. The school leaving certificate issued on her passing class V from the said school also shows her date of birth as 2.1.2008.

This Court, therefore, cannot grant the prayer as made in the writ petition.

The writ petition is, accordingly, **dismissed**.

Order Date :- 8.12.2023

Anuj Singh