

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9177 of 2023

Petitioner :- Bablu Yadav Alias Udit Yadav Thru. His Brother Sumit Kumar Yadav

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

Counsel for Petitioner :- Digvijay Singh Yadav

Counsel for Respondent :- C.S.C.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

Heard learned counsel for the petitioner, 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 MANDAMUS commanding and directing the concerned Opposite Parties to restrain the illegal/second marriage of minor Opposite Party No.5, which is scheduled to be held on 04.12.2023."

It has been submitted by learned counsel for the petitioner that petitioner fell in love with the daughter of respondent No.4 and they ran away together and got married on 06.03.2023 in a temple. The respondent No.4 lodged F.I.R. in Case Crime No.0118/2023 on 02.09.2023 alleging that his daughter is minor and had been enticed away by the petitioner. When the petitioner and the victim were nabbed by the police, the victim was produced before the Magistrate concerned, where she gave her statement under Section 164 Cr.P.C. saying that she had run away on her own with the petitioner but because she was minor as per her High School Marks-sheet/Certificate where her Date of Birth is entered as 12.08.2006, she was given in the custody of her father and the petitioner was sent to Jail. Now, the father of alleged victim, i.e. respondent No.4 is going to re-marry the said victim with one Amit on 4th December, 2023, although she is still minor, therefore, this Court should interfere in the matter.

This Court is of the opinion that in case the daughter of respondent No.4 is still minor, it would only be a voidable marriage prohibited under the Prohibition of Child Marriage

Act, but since she has expressed her consent to go with her parents and not with the petitioner in her statement under Section 164 Cr.P.C., it would be presumed by this Court that she is aware and willing to marry the said other person with whom the marriage is proposed to take place on 4th December, 2023. The petitioner has no subsisting legal right to claim the relief as mentioned in the writ petition. Therefore, this Court finds no good ground to show interference.

Accordingly, the writ petition is hereby **dismissed**.

However, it will be open for the petitioner to approach the Police Station concerned, in case, he is still aggrieved.

Order Date :- 2.12.2023

ML/-