Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9870 of 2023

Petitioner :- Shivani Asthana And Another
Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy. Deptt. Home, U.P. Lucknow And Others
Counsel for Petitioner :- Shiv Bhagwan
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. 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 thereby commanding and directing the opposite parties to give protection to the petitioners as the family members of Petitioner no.1 annoyed due to marriage of petitioners and adamant to made complainant before the police.

II. Issue a writ, order or direction in the nature of Mandamus commanding and directing the opposite parties not to create any hindrance in peaceful matrimonial life of petitioners in any manner."

(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 on 16.12.2023 at Arya Samaj, Shivpuri Kamta, Chinhat, Lucknow, 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 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."

(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 petitioner 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 petitioner there is no F.I.R. lodged. The police cannot be presumed to harass the petitioner only under the influence of the private respondents. 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) 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) Cr.P.C.** before the Magistrate concerned and or file a complaint case under Section 200 of the Cr.P.C. before the authorities concerned.

Order Date :- 22.12.2023
N.PAL

Digitally signed by :-
NARESH PAL
High Court of Judicature at Allahabad,
Lucknow Bench