

HIGH COURT OF JAMMU & KASHMIR & LADAKH
AT SRINAGAR

WP(C) MP No. 47/2025
CM No. 110/2025

Ruqiya Gulzar and anr

....Petitioners.

Through: Mr. Aasif Mohi ud din Rather adv.

v.

UT of J&K and ors

....Respondents.

Through: Ms. Maha Majid, Adv vice
Mr. Mohsin Qadri, Sr. Adv.

Coram:

Hon'ble Mr. Justice Mohammad Yousuf Wani, Judge

ORDER

03.01.2025

1. Through the medium of instant petition, filed under Article 226 of the Constitution of India, the petitioners seek issuance of writs/directions in the nature of:-

- (i) Mandamus for commanding upon the respondents 1 to 5 to provide them the necessary protection as they are apprehending threat to their lives at the hands of private respondents 6 to 8 for contracting marriage out of their own will and choice;
- (ii) Prohibition for restraining the official respondents 1 to 5 to make unnecessary arrest of the petitioner No.2 being the husband of the petitioner No.1 and for restraining all the respondents from interfering into their matrimonial life.

2. It is the case of the petitioners that they being major have contracted marriage out of their own free will and choice in accordance with their Personal Law. That they got introduced to each other some four years back, developed deep mutual affection and love where upon they decided to marry with each other. That they have already performed "Nikah Ceremony" in accordance with the Personal Law guaranteeing them on 5th Nov. 2024 and "Nikah Nama" evidencing the "Nikah Ceremony" stands already executed forming annexure-II to their petition. That the family of the petitioner No.1

has always remained against the relationship of the petitioners even prior to their marriage as a result of which the petitioner No.1 was subjected to great mental torture and agony. That petitioner No.1 chose to leave the parental home against the wishes of respondents 6 & 7, to live with the petitioner No.2 being her husband. That petitioners also apprehend that private respondents 6 & 7 may lodge a false and frivolous complaint before the police concerned to get an FIR registered against the petitioner No.2.

3. The petitioners have placed on record the scanned copies of their Date of Birth Certificates as also of the alleged “Nikah Nama”. Perusal of the copies of the Date of Birth Certificates reveals that the Date of Birth of the petitioner No.1 Ruqiya Gulzar is 11th March 2006, while as that of petitioner No.2 is 25th Feb. 1997. As per copy of the alleged “Nikah Nama”, the same appears to have been executed on 5th Nov. 2024.

4. It is submitted by the learned counsel for the petitioners that since the petitioners being major have contracted marriage out of their own free will and choice, as such, the instant writ petition be disposed of at this threshold stage in view of the law laid down by the Hon’ble Supreme Court of India in case “*Latta Singh vs. State of UP and ors (2006) 5 SCC 475*”; and “*Arumugam Servia v. State of Tamil Nadu (2011) 6 SCC 405*” decided on 19th April 2011, by passing the appropriate directions upon the respondents to safe guard the life and liberty of the petitioners, to prevent any sort of undue and unjustified harassment to them, and also interference with their matrimonial life.

5. The petitioners who appeared in person also before the court admitted the averments of their petition and their statements upon their identification were got recorded by the Registry. The statements are placed on the record of the file.

6. Accordingly the instant petition is admitted to hearing and upon hearing the petitioners as also their learned counsel is disposed of at this threshold stage with the following directions:

i) The official respondents 1 to 5 shall ensure that no unjustified harassment is being caused to the petitioners and they shall be provided the security assistance as and when asked for the same;

ii) The respondents 6 to 8 shall also desist from causing any illegal and unjustified harassment to the petitioners and their matrimonial life.

7. However, this order shall not be construed as any opinion of this court regarding the validity of marriage as per Personal Law guaranteeing the parties.

8. It is also made clear that FIR, if any, having been registered in respect of the incident against the petitioner No.2, the investigation in the same shall be carried to its logical conclusion strictly under law pursuant to the statement of petitioner No.1, which shall, as such necessarily be recorded without any delay, in case any FIR stands registered.

9. Disposed of along with connected CM.

(Mohammad Yousuf Wani)
Judge

Srinagar
03.01.2025
Ayaz, Secy