

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) 471/2025
CM(1117/2025)

Ishrata Bano and Anr.

...Petitioner(s)

Through: Mr. Bhat Khursheed, Advocate

Vs.

Union Territory of J&K and Others.

...Respondent(s)

Through:

CORAM:

Hon'ble Mr. Justice Mohd. Yousuf Wani, Judge.

ORDER
07.03.2025

01. Petitioners are present in person too.
02. Through the medium of the instant petition, filed under Article 226 of the Constitution of India, the petitioners seek issuance of writs/directions in the nature of:-

- (i) Mandamus, commanding the official respondents to ensure full protection cover to the petitioners, so that their right to life and liberty is not curtailed by any person, whosoever, as envisaged under law and the respondents be further directed not to cause any sort of harassment to the married life of the petitioners in pursuance of the law laid down by the Hon'ble Supreme Court in writ petition (Crl) No. 208 of 2004 titled Lata Singh vs State of U.P; and
- (ii) A Writ in the Nature of Prohibition, prohibiting the official respondents from causing any arrest of petitioners

particularly petitioner No. 2 who is husband of the petitioner No. 1.

03. 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 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 27th February, 2025 and “Nikah Nama” evidencing the “Nikah Ceremony” stands already executed forming annexure-I 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 5 to 8 to live with the petitioner No.2 being her husband. That petitioners also apprehend that private respondents may lodge a false and frivolous complaint before the police concerned to get an FIR registered against the petitioner No.2.

04. 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 Ishrata Bano is 6th October, 1997, while as that of petitioner No.2 is 6th April, 1995. As per copy of the alleged “Nikah Nama”, the same appears to have been executed on 27th February, 2025

05. 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 thresh-hold stage in view of the law laid down by the Hon’ble Supreme Court of India in case “***Lata 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 harassment to them, and also interference with their matrimonial life.

06. 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 4 shall ensure that no unjustified harassment is being caused to the petitioners and they shall be provided the protection as and when asked for the same;
- ii) The respondents 5 to 8 shall also desist from causing any illegal and unjustified harassment to the petitioners, so that their right to life and personal liberty is not interfered with.

07. However, in view of the ratio decidendi of the law laid down by the Hon’ble Supreme Court of India in *Doly Rani Vs. Manish Kumar Chanchal* [**2024 Live Law (SC) 334 =2024 SCC Online SC 754**] decided on **19.04.2024**, this order shall not be construed as any opinion of this Court regarding the validity of marriage as per Personal Law guaranteeing the parties.

08. 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.

09. Disposed of along with connected CM.

(Mohd. Yousuf Wani)
Judge

SRINAGAR:

07.03.2025

“HAMID”