.Sr. no 194

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) 2030/2025

Rafiya Rashid and anr ...Petitioner(s)

Through: Ms. Asiya Nazir adv.

VS.

Union Territory of J&K and Others. ...Respondent(s)

Through: Mr. Mohsin Qadri, Sr AAG with Ms. Maha Majeed, adv

CORAM:

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

ORDER

20.08.2025

01. Petitioners are also present in person.

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 for commanding upon the official respondents 1 to 4 to provide them the necessary protection as they are apprehending threat to their lives at the hands of private respondent No. 5 for contracting marriage out of their own free will and choice;*
>
> *(ii) Prohibition for restraining official respondents 1 to 4 to make unnecessary arrest of the petitioner No.2 being the husband of the petitioner No.1 and for restraining the respondent no. 5 from interfering into their matrimonial life."*

03. It is the case of the petitioners that they being major have solemnized marriage out of their own free will and choice in accordance with the Muslim Personal Law guaranteeing them on 06.08.2025. That they have placed on record a photocopy of "Nikah Nama" forming annexure-II to their petition. That the petitioner No.1 expressed her wish before her parents for marrying with petitioner No.2 but her parents are against her wishes and are adamant to marry her some other person against

her will. That the petitioners apprehend that the aforesaid 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 who are present in person and whose identification was checked, corroborated the contents of their petition. Their statements were got recorded by the Registry of this court in attestation of this petition.

05. The petitioners have placed on record the scanned copies of their Adhaar Cards, and Xerox copies of Date of Birth Certificates and alleged "Nikah Nama". Perusal of the copy of the Adhaar cards and Birth certificates reveals that Date of Birth of No.1 Rafiya Rashid is 04.10.1992, while as that of petitioner No.2 Shabir Ahmad Misgar is 14.03.1979.

06. 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.

07. In the facts and circumstances of the case, this court is of the opinion that the instant matter can be disposed of at this threshold stage by passing appropriate orders in accordance with the law.

08. Accordingly the instant petition is disposed of 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 private respondent no. 5 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.

09. 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.

10. **Disposed of** along with connected CM.

(Mohd. Yousuf Wani)
Judge

SRINAGAR:
20.08.2025
"Ayaz"