

\$~9

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(CRL) 2885/2017
VIVEK

..... Petitioner

Through: Mr. Om Prakash Gupta and Mr.
Rakesh Gupta, Advs. for the petitioner

Versus

GOVT OF NCT OF DELHI & ORS

..... Respondent

Through: Mr. Rahul Mehra, Senior
Standing Counsel for the Govt. of NCT of
Delhi with M.N. Tiwari, DCP and SI Manoj
Dalal, P.S. Kanjhawala.
Mr. Sudesh Devi – Mother and Mr. Manjeet –
Cousin Brother

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **13.10.2017**

This writ petition under Article 226 of the Constitution of India seeks a writ of Habeas Corpus directing the production of the petitioner's wife Ms. Manisha daughter of late Shri Krishan Singh. The petitioner claims that he married Ms. Manisha on 12.06.2017 at Arya Samaj Mandir Trust, 74-B, Khanna Market, Tis Hazari, Delhi-110054. A copy of Ms. Manisha's Aadhar card annexed to the petition records her Date of Birth as 22.06.1996. Therefore, at the time of marriage, she was 21 years old.

Ms. Manisha has been produced in the Court along with her mother Ms. Sudesh Devi and cousin brother Manjeet, respondent No.4 and 5, respectively.

We have interacted with them in the chambers. Ms. Manisha has

stated that she married the petitioner of her own volition and has expressed her desire to live with her husband. She also informed the Court that since her marriage with the petitioner is an inter-caste marriage which does not find approval of her family and relatives, she is in mortal fear of her and her husband's life, limb and liberty from her family and relatives especially from respondent Nos. 5 & 6 – her maternal cousins and another relative Mr. Sandeep. Ms. Manisha's mother and her cousin Manjeet have stated that they have no objection of her residing with her husband Vivek if she so desires.

The Court is not oblivious to the threat to the life and limb of couples' engaging in inter-caste marriage in various parts of the country.

In ***Lata Singh v. State of U.P. and Another***, reported as (2006) 5 SCC 475 while dealing with this social malaise the Supreme Court observed as under:

“17. The caste system is a curse on the nation and the sooner it is destroyed the better. In fact, it is dividing the nation at a time when we have to be united to face the challenges before the nation unitedly. Hence, inter-caste marriages are in fact in the national interest as they will result in destroying the caste system. However, disturbing news are coming from several parts of the country that young men and women who undergo inter-caste marriage, are threatened with violence, or violence is actually committed on them. In our opinion, such acts of violence or threats or harassment are wholly illegal and those who commit them must be severely punished. This is a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-

caste or inter religious marriage the maximum they can do is that they can cut-off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage. 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 woman 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.

18. We sometimes hear of "honour" killings of such persons who undergo inter-caste or inter-religious marriage of their own free will. There is nothing honourable in such killings, and in fact they are nothing but barbaric and shameful acts of murder committed by brutal, feudal-minded persons who deserve harsh punishment. Only in this way can we stamp out such acts of barbarism.

19. In the circumstances, the writ petition is allowed. The proceedings in Sessions Trial No. 1201 of 2001 titled State of U.P. v. Sangita Gupta arising out of FIR No. 336 of 2000 registered at Police Station Sarojini Nagar, Lucknow and pending in the Fast Track Court V, Lucknow are quashed. The warrants against the accused are also quashed. The police at all the places concerned should ensure that neither the Petitioner nor her husband nor any relatives of the Petitioner's husband are harassed or

threatened nor any acts of violence are committed against them. If anybody is found doing so, he should be proceeded against sternly in accordance with law, by the authorities concerned.”

In view of Ms. Manisha's desire to live a married life with the petitioner at her matrimonial home i.e. House No. 69, Village Sawda, Nizampur, Delhi-110081, she is free to do so. The petitioner's father Mr. Ved Prakash has assured the Court that he would take due care of his daughter-in-law, Ms. Manisha like his own daughter and he would provide her with all comfort and amenities as he could afford. The petitioner also has assured the Court that he will take care of Ms. Manisha .

In view of the grave apprehension to her life and limb, as expressed by Ms. Manisha, we had directed the presence of DCP of the area. Mr. M.N. Tiwari, IPS, DCP of the area is present in the Court. He has assured the Court that considering the nature of the present case and the apprehension expressed by Ms. Manisha, apropos her and her husband's security; especially a threat from respondent Nos.5 and 6 as well as from one Mr. Sandeep, adequate arrangement for safety and security of the young couple shall be made.

In the aforesaid circumstances, the Court directs that round the clock security shall be made available to the petitioner - Vivek and his wife Ms. Manisha forthwith. The Delhi Police shall provide Vivek and Ms. Manisha two telephone numbers of police officers, on which the couple may intimate any development or report the police in case of any exigency. Any call/SMS from either Vivek or Ms. Manisha on the aforesaid numbers shall be immediately responded to by the police. Ms. Manisha shall be escorted by the Police to her aforesaid matrimonial home from the Court today.

Ms. Manisha shall be at liberty to make appropriate statement to the Local Police regarding her security, threats to her etc.

The writ petition is disposed off with the above directions.

A copy of this order be given dasti to the parties under the signature of the Court Master.

SIDDHARTH MRIDUL, J

NAJMI WAZIRI, J

OCTOBER 13, 2017/acm