

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.10748 OF 2018

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioners seeking verbatim the following relief:

“... to issue a writ, order or direction more particularly one in the nature of **WRIT OF MANDAMUS** declaring the action of 6th respondent at the instance of respondents 7 and 8 in repeatedly insisting petitioners to appear before his authority and subject the custody of 2nd petitioner to the respondents 7 and 8 by abandoning their marriage for the purpose of performing re-marriage with 3rd party, as illegal, irregular, irrational, without any authority of law and violative of Articles 14 and 21 of the Constitution of India and consequently direct the respondents not to interfere in any manner with petitioners' life, liberty and marital relationship and pass such other orders or order as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. I have heard the submissions *Sri D. Sarath Kumar*, learned counsel for petitioners, and of the learned Government Pleader for Home (AP) appearing for respondent Nos.1 to 6. I have perused the material record.

3. Learned counsel for the petitioners would submit that the marriage between the 1st petitioner and the 2nd petitioner, even assuming for a moment that the 2nd petitioner is a minor, is a valid marriage and in support of the said submission, he placed reliance on a decision of this Court in **Makemalla Sailoo v. Superintendent of Police, Nalgonda District and others**¹. He would further submit that the girl/the 2nd petitioner is pregnant and the gestation is three months old and that if the custody of the girl is given to her parents, there is a likelihood of

¹ 2006 (2) ALD 290 (DB)

getting aborted the pregnancy against the wishes of the petitioners and that the police are calling the parents of the 1st petitioner to the police station at the instance of the parents of the girl/the 2nd petitioner.

4. Learned Government Pleader for Home (AP), on instructions, would submit that the police made preliminary enquiries and collected copies of the educational record of the girl/the 2nd petitioner and that her S.S.C. Certificate issued by the Board of Secondary Education and the Transfer Certificate issued by the Sri Gayatri Vidya Parishad Junior College, Kandukur, would show that her date of birth is '12-06-2000' and in that view of the matter, she is a minor and that, therefore, the police are obliged to act in accordance with the procedure established by law.

5. Having regard to the facts and submissions, this Court finds that the police concerned cannot be restrained from discharging their lawful duties. However, it is needless to mention that while dealing with the matter, the police officers concerned shall take appropriate care, considering the fact that the girl/the 2nd petitioner is stated to be pregnant. Yet, if the petitioners have any apprehension, they are at liberty to present themselves before a superior police officer or a learned Judicial Magistrate of First Class of their choice and seek appropriate reliefs, which the law permits.

6. Subject to the above, the Writ Petition is disposed of.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

There shall be no order as to costs.

M.SEETHARAMA MURTI, J

06th April, 2018

Note: Issue C.C. today.
B/o.MD