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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 12th November, 2018

W.P.(CRL) 3236/2018

ABID ALI ..... Petitioner

versus

STATE OF NCT OF DELHI ..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Sanchit Guru, Advocate.
Mr. S.A. Rajput, Advocate for Ms. Shazia.

For the Respondent : Mr. Rahul Mehra, Standing Counsel (Crl.), GNCTD along with Mr. Chaitanya Gosain and Mr. Tushar Sannu, Advocates for State.
SI Kulbir, P.S. Uttam Nagar.

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

J U D G M E N T

SIDDHARTH MRIDUL, J (ORAL)

1. The present petition under Article 226 of the Constitution of India, has been instituted on behalf of the father of Shaziya, predicated on the allegation that, the latter has been kidnapped and seeking a direction for her production before this Court.

2. At the outset, it is relevant to observe that, Shaziya has admittedly instituted a writ petition before the Hon'ble Allahabad High Court at U.P., seeking a direction for police protection based on her assertion that, the petitioner, who is her father, as well as, her mother, have threatened to cause her grave harm and bodily injury.

3. It is also relevant to observe that, Shaziya has made a statement under Section 164 of the Code of Criminal Procedure, 1973, duly recorded by a Metropolitan Magistrate having jurisdiction, as follows:

> "मेरा नाम शज़िआ है। मेरी उम्र 19 साल है। मेरी जन्म तिथी 01.01.1999 है। मैं एक लड़के नाज़िम हुसैन से प्यार करती थी। मेरे घरवाले इस शादी के खिलाफ थे। दिनांक 09.01.2018 को मैं घर छोड़ कर चली गयी। फिर दिनांक 30.01.2018 को मैंने और नाज़िम ने निकाह कर लिया। हमने निकाह मुड़ा इमाम जिला अमरोहा UP में किया। उसके बाद हमने इलाहबाद में कोर्ट मैरिज भी कर ली। फिर हम मुड़ा इमाम में रहने लगे। मेरे घरवालों ने आकर हमें जान से मरने की धमकी दी फिर हम दोनों दिल्ली आकर मोहन गार्डन नूरी मस्जिद के पास रहने लगे। मैंने अपनी मर्जी से निकाह किया है। मुझे कोई बहला फुसला कर नहीं ले गया."

4. Learned counsel appearing on behalf of the petitioner would, however, invite this Court's attention to an order dated 23rd April, 2018, passed by a

learned Single Judge of this Court, whereby, an earlier order granting protection to Shaziya was vacated, in view of the circumstance that, she was stated to be a minor when she was kidnapped and she had already availed of an order of protection from the Allahabad High Court at U.P. and further that, she along with her purported husband, had not furnished their correct address in the proceedings.

5. Insofar as, the allegations of Shaziya being a minor on the date of the alleged offence is concerned, it would be relevant to note that the Delhi Police has after due investigation, filed a cancellation report before the Court of competent jurisdiction, in that behalf. In fact, it is further an admitted position that, the petitioner has filed a protest petition before the said Court, which is pending adjudication.

6. Further more, there is no denial of the position that, Shaziya of her own volition, married Nazim Hussain, who is present before this Court and states that, Shaziya is unable to travel to Delhi from Amroha, her matrimonial home at Village Mundha Imma, P.S. Didauli District, Amroha, U.P., on account of being in the family way.

7. A plain reading of the statement of Shaziya under Section 164 Cr.PC further reflects that, she apprehending grave harm to her life and that of

Nazim Hussain her newlywed husband, at the hands of her parents, which includes the petitioner, had moved the Court having territorial jurisdiction for protection and that, the High Court of Allahabad at U.P. had issued necessary directions, in that regard.

8. In view of the foregoing, we are satisfied that, Shaziya's well being and safety are assured. We are further cognizant of her apprehension in relation to her well being and safety in view of the threats purportedly extended, as aforementioned, by her parents. In response to a submission made on behalf of the petitioner, we have also asked him as to why he cannot visit Shaziya at Amroha, where she currently resides, to be told that, he apprehends a threat to his life, if he were to visit Amroha, in view of his allegation that, his daughter has been forced to marry Nazim Hussain.

9. It is the duty of the Court to protect the newlyweds, as per the direction of the Hon'ble Supreme Court of India in ***Ashok Kumar Todi vs Kishwar Jahan*** reported as ***AIR 2011 SC 1254***, wherein it has been held that, where the boy or the girl, as the case may be, are majors, and if they undergo inter-caste or inter-religious marriage, it is the duty of all persons in the administration/police authorities throughout the country, that their marital life should not be disturbed and the newlyweds

ought not to be harassed. Needless to state that, the petitioner shall be at liberty to visit Shaziya at her matrimonial home in Amroha, U.P. or seek further directions from the Court having territorial jurisdiction, in that behalf. We further direct Nazim Hussain, who is present in Court before us to facilitate the petitioner and his wife's visit to Amroha, in the event the latter are desirous of visiting Shaziya. We, however, make it clear that, we have expressed no opinion in relation to the allegation of kidnapping of Shaziya, made on behalf of the petitioner.

10. In view of the foregoing discussion, we are of the considered view; no further directions are called for in the present proceedings. The writ petition is accordingly disposed off.

SIDDHARTH MRIDUL
(JUDGE)

SANGITA DHINGRA SEHGAL, J
(JUDGE)

NOVEMBER 12, 2018
RS