

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

106

CRWP-6919-2020(O&M)

Date of decision : 08.09.2020

Suman Devi @ Shaheen and another

.....Petitioners

versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Nafees Ahmad Khan, Advocate, for the petitioners

ANIL KSHETARPAL, J. (ORAL)

The petitioners have filed the present criminal writ petition under Article 226 of the Constitution of India for issuance of directions to respondent no.2 and 3, to protect the life and liberty of the petitioners.

It is pleaded case that petitioner no.1 is married with Raj Kishor Shah. They have 3 minor children. Petitioner no.2 is also previously married. Now the petitioners claim that petitioner no.1, along with her one minor child is living and staying with petitioner no.2 and respondent no. 6 to 8 wants to take forcible custody of the minor child.

On being called upon, learned counsel for the petitioners fairly admitted that petitioner no.1 cannot perform the marriage with petitioner no.2 during subsistence of her first marriage. However, he contended that the petitioners have now performed marriage by way of 'Nikah" at Nuh as per Muslim Customs. Once again on being called upon, learned counsel has admitted that even as per customary Muslim Law, the alleged marriage of petitioner no.1 with petitioner no.2 is illegal.

From the reading of the petition, it is apparent that petitioner no.1 is now more interested in getting injunction against respondent no.4 to 8 to protect the custody of her minor child. Keeping in view the aforesaid

facts, this court is of the considered view that the petitioner has an equally efficacious remedy of filing a petition for protecting the custody of her minor child.

As regards prayer with regard to protection of their life and liberty, it has been pleaded in paragraph 4 of the petition that respondent no.6 to 8, does not have any objection with the subsequent marriage of the petitioners. Para 4 of the petition is extracted as under:--

4. That it is the second marriage of petitioner no.1 as she was earlier married in year 2009 with Raj Kishor Shah Respondent No.6 and out of that wedlock she has three minor child. Now from last four years petitioner No1 alongwith her minor child is residing. The petitioner No.2 is married Respondents No.6 to 8 want to take forcible custody of minor child otherwise they have no objection with the marriage Respondents No. 4 and 5 are parents of the petitioner No.1 and they are against the marriage of the petitioner because of different religion.

Keeping in view the aforesaid facts, this court does not find it appropriate to exercise its extra ordinary jurisdiction under Article 226 of the Constitution of India.

Dismissed.

September 08, 2020
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No