

CRWP-7122-2021

Date of decision: 30.07.2021

Himakshi Deka alias Naimal and another

...Petitioners

Versus

State of Punjab & Ors.

....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Mohd. Salim, Advocate for the petitioners.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

2. Prayer in the Criminal Writ Petition under Article 226 of the Constitution of India is for the issuance of a writ in the nature of Mandamus for directing respondent Nos.2 and 3 to protect the life and liberty of the petitioners at the hands of respondent Nos.4 and 5 as also for not harassing the petitioners on any false criminal complaint, if any lodged by respondent Nos.4 and 5.

3. Learned counsel contends that petitioner No.1 is more than 28 years of age as is evident from Aadhaar Card, Annexure P/1 in which her date of birth is 21.01.1991 while petitioner No.2 is more than 29 years of age as is evident from Aadhaar Card Annexure P/2, in which his date of birth is recorded as 25.12.1991 and that although petitioner No.1 is a Hindu while petitioner No.2 is a Muslim, but on account of mutual liking for each other they got married on 17.7.2021, as is evident from Marriage Certificate

Annexure P/5 dated 17.07.2021, without any fraud, force, pressure, coercion

or undue influence, though the same is against the wishes of respondent Nos.4 and 5, who are threatening them with harm to their life and liberty, therefore, the petitioners submitted representation Annexure P/7 dated 27.07.2021 to respondent No.2 i.e. Senior Superintendent of Police, Malerkotla, District Malerkotla, seeking protection of their life and liberty but no action has been taken in respect thereto till date and that in the circumstances, the petitioners would be satisfied if the petition is disposed of by directing respondent No.2 to consider and decide representation Annexure P/7 dated 27.07.2021, in accordance with law, in a time bound manner and to provide protection to them.

4. Notice of motion to respondent No.2 only.

5. Mr. Sukhbeer Singh, AAG, Punjab, accepts notice on behalf of respondent No.2 and states that he has no objection to the limited prayer made by learned counsel for the petitioners.

6. In Lata Singh vs. State of UP and others, JT 2006 (6) SC, 173, Hon'ble the Supreme Court while dealing with the matter of protection to newly wedded couple, has held 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 are not harassed by any one nor subjected to threats or acts of violence, and any one 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.”

7. Accordingly, in view of the decision of Hon’ble the Supreme Court in Lata Singh’s case (supra) but without commenting upon the age of the petitioners, validity of their marriage or the authenticity of the documents attached with the petition, the petition is disposed of by directing respondent No.2 to consider and decide representation, Annexure P/7 dated 27.07.2021, submitted by the petitioners in accordance with law as

expeditiously as possible and take such action in respect thereto as may be warranted keeping in view the threat perception to the petitioners. However, it is made clear that this order shall not bar any civil or criminal proceedings initiated against the petitioners in accordance with law.

(B.S. Walia)
Judge

30.07.2021
'rajesh'

Whether speaking/ reasoned : *Yes/No*
Whether reportable : *Yes/No*