

#16

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On: 25.05.2021

W.P.(CRL) 1022/2021

ABDUL QADIR

..... Petitioner

versus

STATE (NCT OF DELHI) AND OTHERS

..... Respondents

Advocates who appeared in this case:

For the Petitioner	: Mr. Jai Shankar, Mr. Vijay Pratap Singh and Ms. Nandita Rao, Advocates along with petitioner.
For the Respondents	: Mr. Sanjay Lao, Standing Counsel (Criminal) for the State along with Inspector Anand Yadav, SHO, P.S.: New Usmanpur, New Delhi and HC Santu Lal Sharma, P.S.: K.N. Katju Marg, Delhi.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

JUDGMENT

SIDDHARTH MRIDUL, J. (OPEN COURT – via Video Conferencing)

CRL.M.A. 8059/2021 (Exemption)

Exemption granted, subject to just exceptions.

The application is disposed of accordingly.

Signature Not Verified

Digitally signed
by: DURGESH NANDAN
Signing Date: 28.05.2021
16:33:43

CRL.M.A. 8060/2021 (Exemption)

The present application under Section 482 of the Code of Criminal Procedure, 1973 has been instituted on behalf of the applicant/petitioner seeking exemption from filing the requisite court fee in support of the accompanying petition.

For the reasons stated in the application and in view of the prevailing situation, the same is allowed. The applicant/petitioner is allowed to file the requisite court fee within a period of 72 hours from the date of resumption of regular functioning of the Court.

The application is disposed of accordingly.

W.P.(CRL) 1022/2021

1. The present *habeas corpus* petition under Article 226 of the Constitution of India read with Section 482 of the Code of the Criminal Procedure, 1973 has been instituted on behalf of the petitioner, namely Mr. Abdul Qadir son of Sh. Irshad Ali, resident of G-7/193, Sector-16, Rohini, Delhi, praying as follows:

“a. *Issue appropriate writ of Habeas Corpus, order or direction thereby directing the respondents to immediately produce Ms. Ayesha @ Preeti, wife of the petitioner, before this Hon’ble Court, in the interest of justice.*

- b. *Issue appropriate writ of mandamus, order or direction thereby directing the concerned Deputy commissioner of Police, Delhi to provide immediate safety and protection, protecting the life and liberty of the petitioner and his wife Ms. Ayesha @ Preeti from the cruel hands of the Respondent No. 2, 3, 4 and 5, in the interest of justice.*
- c. *Pass any such other or further order(s), which this Hon'ble Court deems fit and proper under the facts and circumstances of the case in favour of the petitioner."*

2. As verified from her Aadhar Card as well as her PAN Card, it is evident that Ms. Ayesha *alias* Preeti is about 21 years old since her date of birth as disclosed in the said government identity documents is 03.08.2000. Presently she is stated to be a student of B.A. 2nd Year. She has appeared before this Court for this hearing through video-conferencing from P.S.: New Usmanpur, New Delhi. Ms. Ayesha *alias* Preeti is identified by HC Santu Lal Sharma, P.S.: K.N. Katju Marg, Delhi as well as by Inspector Anand Yadav, SHO, P.S.: New Usmanpur, New Delhi.

3. We have interacted with Ms. Ayesha *alias* Preeti as well as with the petitioner Mr. Abdul Qadir, individually at length. Ms. Ayesha *alias* Preeti has expressed her desire to be with Mr. Abdul Qadir, the petitioner, who she states she has married of her own free will and volition on 12.04.2021 at Qazi-e-Nikah: Maulana Qazi Muhammad

Rashid Nadvi, Kashmiri Gate, Delhi. Ms. Ayesha *alias* Preeti and Mr. Abdul Qadir have expressly and unequivocally expressed their free will to reside together at the latter's residence within the jurisdiction of P.S.:K.N. Katju Marg, Delhi.

4. In view of the foregoing, HC Santu Lal Sharma, P.S.: K.N. Katju Marg, Delhi, is directed to escort the newlywed couple to Mr. Abdul Qadir's residence and afford them adequate security and protection so as to ensure their safety and prevent any untoward incident as they apprehend.

5. The above direction has been issued keeping in view the decision of the Hon'ble Supreme Court in ***Ashok Kumar Todi vs. Kishwar Jahan and Others***, (2011) 3 SCC 758, para 36 of which judgment is most relevant and is reproduced herein below :

"36. The following observation and direction in Lata Singh vs. State of U.P. is relevant: (SCC p.480, para 17)

"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. "

6. With the above directions, the *habeas corpus* petition is allowed and disposed of.
7. A copy of this order be sent electronically to the learned counsel for the parties, as well as to the SHO, P.S.: K.N. Katju Marg, Delhi.

**SIDDHARTH MRIDUL
(JUDGE)**

**ANUP JAIRAM BHAMBHANI
(JUDGE)**

MAY 25, 2021/rs

[Click here to check corrigendum, if any](#)