

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Case:- WP(C) No. 2522/2024
CM No. 6134/2024

1. Niharika Kalmunde, D/o Jeet Raj, age 18 years, W/o Vishal Kumar
2. Vishal Kumar, age 26 years S/o Om Parkash, both R/o Ward No.1, Ban Sultan, Miran Sahib, Tehsil R S Pura, Jammu.

.....Petitioner(s)

Through: Mr. Raman Kumar, Advocate

Vs

1. UT of J&K through Home Department, Civil Secretariat, Jammu.
2. Senior Superintendent of Police, Jammu
3. SHO Police Station, Miran Sahib, Jammu
4. Jeet Raj S/o Sardari Lal
5. Ravi Kumar S/o Jeet Raj, both R/o W.No.1, Ban Sultan, Miran Sahib, Teshil R S Pura, Jammu.

.... Respondent(s)

Through: Ms. Nazia Fazal, Assisting Counsel vice
Ms. Monika Kohli, Sr. AAG for R-1 to 3

Coram: HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

ORDER
(21.10.2024)

- 01.** Petitioners, Niharika Kalmunde and Vishal Kumar, claim that they, being major, have contracted marriage in accordance with Hindu rituals, against the wishes of their relatives, out of their free will and are living as husband and wife, but are apprehensive to be subjected to physical violence and harassment by such relatives, therefore seeking protection and security cover from official respondents.
- 02.** Heard and perused the record annexed with the writ petition.
- 03.** When two adults consensually choose each other as life partners, it is manifestation of their choice that is recognized under Articles 19 and 21

of the Constitution. Such right has the sanction of constitutional law and once that is recognized, said right needs to be protected and it cannot succumb to conception of class honour or group thinking. Consent of family or community or clan is not necessary once two adult individuals agree to enter into wedlock and their consent has to be piously given primacy. The concept of liberty has to be weighed and tested on the touchstone of constitutional sensitivity, protection and values it stands for.

04. Keeping in view the prayer made, writ petition is disposed of with a direction to official respondents to provide adequate security cover to petitioners and act in accordance with the law laid down by the Supreme Court in **Lata Singh v. State of U.P. (2006) 5 SCC 475**, and **Shakti Vahini v. Union of India and others AIR 2018 SC 1601**, subject to the condition that official respondents will check and see as to whether parties have solemnized marriage in accordance with prevalent laws, and if there is an FIR against any of the petitioner(s), the police may go ahead with the investigation under rules.

05. The writ petition stands disposed of along with connected CM.

(MOKSHA KHAJURIA KAZMI)
JUDGE

JAMMU
21.10.2024
Vijay

Whether the order is speaking: Yes
Whether the order is reportable: No