

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/SPECIAL CRIMINAL APPLICATION (DIRECTION - POLICE
PROTECTION) NO. 4120 of 2023**

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MADARA FARZANA MAHBOOBHAI

Versus

STATE OF GUJARAT

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Appearance:

MR BILAL M RADHANPURWALA(10978) for the Applicant(s) No. 1

MR.WASIM M PATHAN(6802) for the Applicant(s) No. 1

NOTICE SERVED for the Respondent(s) No. 2,3,4

MR RONAK RAVAL, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 30/01/2024

ORAL ORDER

[1] Rule. Learned APP waives service of notice of rule on behalf of respondent-State.

[2] This petition under Article 226 of the Constitution of India, has been preferred by the petitioner , inter alia, with a prayer to direct the Respondent authorities to provide protection to the petitioner and his family members as son of the petitioner has married with inter-caste.

[3] It is the case of the petitioner herein that son of the petitioner has married with one Kajalben Motiyani, which came to be registered on 29.12.2020 at Ahmedabad . The marriage of the petitioner has not been liked by the parents of the wife and relatives of the wife and therefore, the petitioner and his family

members apprehend danger to their lives and property.

[4] Learned advocate for the petitioner, has submitted that the petitioner and his family members are facing threats to their lives and liberty from the parents and relatives of the wife of the son of the petitioner. Learned advocate for the petitioner has fairly stated that the son and wife of the petitioner are currently staying in Dubai and will return India and they want to go their native at Godhra but they are very scared because they apprehend that the family members of the wife of the son of the petitioner might cause harm to the son of the petitioner. The son of the petitioner and his wife have attained the age of majority and have voluntarily decided to get married to each other. They are residing together but their married life is under threat, therefore, in consonance with the principles of law enunciated by the Supreme Court in **Lata Singh v. State of Uttar Pradesh & Anr. [2007(1) GLH 41]**, protection may be provided to the petitioners.

[5] Learned Additional Public Prosecutor, has submitted that the prayer of the petitioners would be dealt with in accordance with law.

[6] This Court has heard learned counsel for the respective parties and taken into consideration the principles of law enunciated by the Supreme Court in *Lata Singh* (supra).

[7] In **Lata Singh** (supra), the Supreme Court has held as below:

“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.” (Para 7)

“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.” (Para 8)

[8] On the facts and in the circumstance of the case, this Court is of the view that as petitioner and his family members want to go their native. Therefore, Respondent authorities are directed to provide police protection to the petitioner and his family members and take necessary action qua threat perception to petitioner and his family members. Petitioner is at liberty to make fresh representation.

[9] With the above observation and directions, present petition stands disposed of. Rule is made absolute.

KUMAR ALOK

(HASMUKH D. SUTHAR,J)