

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.687 of 2025

Arising Out of PS. Case No.- Year-0 Thana- District- Patna

Md Saif Son of Md. Ayub Resident of Aman Colony, Isapur Petrol Line, Ward
No. 23, Phulwari Sharif, P.S.- Phulwari Sharif, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
Bihar
2. The Inspector General, Patna Region, Patna Bihar
3. The District Magistrate, Patna. Bihar
4. The Senior Superintendent of Police, Patna. Bihar
5. The SHO, Budha Colony Police Station, District-Patna. Bihar
6. Arvind Kumar Gupta Resident of North Mandiri, Dhobi tola, P.S.- Budha
Colony, District- Patna.
7. Priya Bharti Wife of Md. Saif and Daughter of Arvind Kumar Gupta
Resident of North Mandiri, Dhobi tola, P.S.- Budha Colony, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kumar Tiwary, Advocate
For the State	:	Mr. Prabhu Narayan Sharma, AC to AG
For the Resp Nos. 6 & 7 :		Mr. Ashutosh Nath, Advocate
		Mr. Amritanshu Dangi, Advocate
		Mr. Amit Bhaskar, Advocate
		Mr. Aatif Iqbal, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

6 05-08-2025 Heard learned counsel for the petitioner, learned AC

to learned AG for the State and learned counsel for Respondent

Nos. 6 and 7. The petitioner, his parents, Respondent No. 6, his

wife and the Corpus (Respondent No. 7) are present in person.

2. We have interacted with the Corpus, her parents on



the one hand and the petitioner on the other hand. In fact, we have also had an interaction with the parents of the petitioner.

3. The Corpus (Respondent No. 7) has repeatedly stated in presence of each and all that she has married to the petitioner, they were studying together in a coaching institute where they had come in contact in the year 2015. The Corpus is admittedly major, her date of birth is 23.11.2001. The petitioner is also major and both of them have solemnised marriage before the Office of Marriage Officer, Government of Bihar. The certificate of marriage has been enclosed as Annexure '1' to the writ application.

4. The Respondent No. 7, who is the Corpus, has also filed an affidavit in which she has categorically stated her desire to go with the petitioner and live with him.

5. The Respondent No. '6' and his wife have submitted that earlier, Respondent No. 7 had told them that she will live with her parents only but now she is changing her statements.

6. The petitioner as well as his parents have stated before this Court that they would keep the Respondent No. 7 with all dignity, respect and care. They have submitted an undertaking on an affidavit in this regard. Learned counsel for



the petitioner has given an undertaking to furnish the stamp on the affidavit tomorrow.

7. We have considered the entire facts and circumstances. It is evident that both the petitioner and Respondent No. 7 are major and according to her, she has solemnised marriage with the petitioner.

8. The Respondent No. 7 has not only in course of interaction with the Court expressed her desire to go with the petitioner, she has also filed an affidavit affirming her desire.

9. We are persuaded to allow this writ application keeping in view the judgment of the Hon'ble Supreme Court in the case of **Shafin Jahan versus Asokan K.M. and Others** reported in **(2018) 16 SCC 368**. Paragraphs '52', '53' and '54' of the judgment is being reproduced hereunder for a ready reference:-

“52. It is obligatory to state here that expression of choice in accord with law is acceptance of individual identity. Curtailment of that expression and the ultimate action emanating therefrom on the conceptual structuralism of obeisance to the societal will destroy the individualistic entity of a person. The social values and morals have their space but they are not above the constitutionally guaranteed freedom. The said freedom is both a constitutional and a human right. Deprivation of



that freedom which is ingrained in choice on the plea of faith is impermissible. Faith of a person is intrinsic to his/her meaningful existence. To have the freedom of faith is essential to his/her autonomy; and it strengthens the core norms of the Constitution. Choosing a faith is the substratum of individuality and sans it, the right of choice becomes a shadow. It has to be remembered that the realisation of a right is more important than the conferment of the right. Such actualisation indeed ostracises any kind of societal notoriety and keeps at bay the patriarchal supremacy. It is so because the individualistic faith and expression of choice are fundamental for the fructification of the right. Thus, we would like to call it indispensable preliminary condition.

53. Non-acceptance of her choice would simply mean creating discomfort to the constitutional right by a constitutional court which is meant to be the protector of fundamental rights. Such a situation cannot remotely be conceived. The duty of the court is to uphold the right and not to abridge the sphere of the right unless there is a valid authority of law. Sans lawful sanction, the centripodal value of liberty should allow an individual to write his/her script. The individual signature is the insignia of the concept.

54. In the case at hand, the father in his own stand and perception may feel that there has been enormous transgression of his right to protect the interest of his daughter but his



viewpoint or position cannot be allowed to curtail the fundamental rights of his daughter who, out of her own volition, married the appellant. Therefore, the High Court has completely erred by taking upon itself the burden of annulling the marriage between the appellant and Respondent 9 when both stood embedded to their vow of matrimony.”

10. We also reproduce paragraphs ‘86’ and ‘87’ of the Hon’ble Supreme Court judgment hereunder:-

“**86.** The right to marry a person of one's choice is integral to Article 21 of the Constitution. The Constitution guarantees the right to life. This right cannot be taken away except through a law which is substantively and procedurally fair, just and reasonable. Intrinsic to the liberty which the Constitution guarantees as a fundamental right is the ability of each individual to take decisions on matters central to the pursuit of happiness. Matters of belief and faith, including whether to believe are at the core of constitutional liberty. The Constitution exists for believers as well as for agnostics. The Constitution protects the ability of each individual to pursue a way of life or faith to which she or he seeks to adhere. Matters of dress and of food, of ideas and ideologies, of love and partnership are within the central aspects of identity. The law may regulate (subject to constitutional compliance) the conditions of a valid marriage, as it may regulate the situations in which a marital tie can be ended or annulled. These remedies are available to parties to a marriage for it is they who decide best on whether they should



accept each other into a marital tie or continue in that relationship. Society has no role to play in determining our choice of partners.

“87. In *K.S. Puttaswamy v. Union of India*⁴⁴, this Court in a decision of nine Judges held that the ability to make decisions on matters close to one's life is an inviolable aspect of the human personality : (SCC pp. 498-99, para 298)

“298. ... The autonomy of the individual is the ability to make decisions on vital matters of concern to life. ... The intersection between one's mental integrity and privacy entitles the individual to freedom of thought, the freedom to believe in what is right, and the freedom of self-determination. ... The family, marriage, procreation and sexual orientation are all integral to the dignity of the individual.”

A Constitution Bench of this Court, in *Common Cause v. Union of India*⁴⁵, held : (SCC p. 194, para 346)

“346. ... Our autonomy as persons is founded on the ability to decide : on what to wear and how to dress, on what to eat and on the food that we share, on when to speak and what we speak, on the right to believe or not to believe, on whom to love and whom to partner, and to freely decide on innumerable matters of consequence and detail to our daily lives.”

The strength of the Constitution, therefore, lies in the guarantee which it affords that each individual will have a protected entitlement in determining a choice of partner to share intimacies within or outside marriage.”

44. (2017) 10 SCC 1

45. (2018) 5 SCC 1



11. This Court had occasion to consider a similar issue in the case of **Based on the News Item Uploaded on the Website of News App Bar and Bench versus The State of Bihar and Others (CWJC No. 11689 of 2018)** reported in **2018 SCC OnLine Pat 1179** wherein the Hon'ble Division Bench of this Court had been pleased to take note of the desire of the Corpus to have her own way of life and exercise her fundamental right and based on that stand of the Corpus, this Court directed that the Corpus be set free. The relevant paragraphs of the judgment in CWJC No. 11689 of 2018 are being reproduced hereunder for a ready reference:-

“If we analyze the aforesaid judgment in the backdrop of facts and circumstances of the present case, even though we are conscious of the fact that the parents have various reasons to resist the wishes of their daughter, but once the daughter in categorical term on two occasions when she appeared before us, i.e. today and earlier to that on 26.06.2018, expressed her desire to have her own way of life and exercise her fundamental right, we have no hesitation in allowing her to go the way she desires and exercise the constitutional right available to her. She is a free citizen and no one even her parents have a right to curtail or withhold the freedom available to her under the Constitution.

Accordingly, we direct that the corpus be set free. She is free to proceed to any place as she wishes. The corpus is free to move out on her own and prosecute her career and the life in the way she desires.”



12. In consonance with the views expressed by the Hon'ble Division Bench in the aforesaid case, we are of the considered opinion that since the Corpus (Respondent No. 7) has expressed her desire to have her own way of life and she wants to live with the petitioner, we direct that the Corpus (Respondent No. 7) be set free. She would be free to proceed to any place as she wishes. She may move out on her own and pursue her career and life in her own way.

13. We make it clear that we have not expressed any opinion with regard to the validity of the marriage between the parties. We have simply taken note of what have transpired from the records and submissions. The parents of Respondent No. 7 may avail their legal rights, if any, in accordance with law. This order will not come in their way in exercise of their independent rights by way of any legal remedy.

14. This writ application stands disposed of.

(Rajeev Ranjan Prasad, J)

(Ajit Kumar, J)

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