2026:AHC:207962-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 11802 of 2025

Umesh And Another

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Pankaj Kumar Mishra
Counsel for Respondent(s)	:	G.A.

Court No. - 47

HON'BLE RAJEEV MISRA, J.
HON'BLE JAI KRISHNA UPADHYAY, J.

1. Case called out in the revised list.

2. Even though the name of Mr. Pankaj Kumar Mishra is duly published in the cause list as counsel for petitioners, but neither he nor anyone on his behalf is present to press the present writ petition, even in revised call.

3. Learned AGA representing the State respondents 1 and 2 is present.

4. Perused the record.

5. The petitioners Umesh and another have approached this Court by means of present criminal miscellaneous writ petition challenging the FIR dated 17.12.2023 lodged by first informant-respondent 5 Fatima Khatun and registered as Case Crime No. 0725 of 2023, under Section 363, 366, 376 IPC & 4(2) of POCSO Act, Police Station - Chiluaatal, District - Gorakhpur.

6. Present writ petition came up for admission on 4.6.2025 and this Court passed the following order.

"1. Learned counsel for the petitioner prays for and is granted permission to make correction in the description of respondent No.5 in the memo of writ petition.

2. Heard learned counsel for the petitioners and learned A.G.A. for the State.

3. The relief sought in this petition is for quashing of the F.I.R. dated 17.12.2023 registered as Case Crime No.0725 of 2025, under Sections 363, 366, 376 IPC & 4(2) of POCSO Act, Police Station Chiluaatal, District Gorakhpur. Further prayer has been made not to arrest the petitioners in the aforesaid case.

4. Submission is, petitioner No. 1 and petitioner No. 2 married each other of their

own free will. Merely because respondent no. 5, the mother of petitioner No. 2 is opposed to that marriage, the present prosecution has been lodged.

5. At present, a child has been born from the marriage between the party. The petitioners are seeking to live together. They have filed a joint affidavit in support of their averments.

6. The matter requires consideration.

7. Learned AGA has accepted notice on behalf of State-respondent nos.1 to 3. Issue notice to respondent no.5 returnable at an early date. Steps may be taken within a week.

8. All the respondents are accorded six weeks time to file counter-affidavit. The petitioners will have two weeks thereafter to file rejoinder affidavit.

9. List in the week commencing 15.09.2025.

10. Till the next date of listing or till submission of the police report under Section 193 (3) of Bhartiya Nagrika Suraksha Sanhita, 2023, whichever is earlier, the respondents are restrained to arrest the petitioners pursuant to the impugned F.I.R. subject to cooperation in the on-going investigation."

7. Office has submitted a report dated 7.7.2025 that notices have been issued to first informant respondent 5. However, no service report has been submitted by the office. Be that as it may, since no one appears on behalf of petitioners to press the present writ petition, it is accordingly dismissed for want of prosecution.

8. Interim order, if any, shall stand vacated.

October 5, 2026
S.K.S.

(Jai Krishna Upadhyay,J.) (Rajeev Misra,J.)

Digitally signed by :-
SUNIL KUMAR SINGH
High Court of Judicature at Allahabad