

Court No. - 42

Case :- WRIT - C No. - 10210 of 2021

Petitioner :- Smt. Surbhi Rajput And Another

Respondent :- State Of U P And 3 Others

Counsel for Petitioner :- Aklank Kumar Jain

Counsel for Respondent :- C.S.C.

Hon'ble Rohit Ranjan Agarwal,J.

Supplementary affidavit has been filed as directed by this Court vide order dated 17.06.2021.

Heard Sri Aklank Kumar Jain, learned counsel for the petitioners and learned standing counsel for the State.

Present petition has been filed by the petitioners claiming protection of their lives and liberty as they have married of their own free will and are adults and are living together. The averments made in the petition are supported by the joint affidavits of the petitioners. Further, it is stated that private respondent and other family members have got annoyed and there is serious danger to the lives of the petitioners as they are being threatened and harassed.

In support of their age, petitioner no.1 has brought on record her High School Mark-sheet, wherein her date of birth is shown as 02.04.2001 and petitioner no.2 has brought on record his High School Mark-sheet, wherein his date of birth is shown as 08.08.1997. Thus, it appears from the record that both the petitioners are major.

It is further stated that the petitioners shall apply for registration of their marriage.

The petitioners have averred in the writ petition that they are living as wife and husband. It is stated that they have apprehension that private respondent can eliminate them for the honour of her family. In case, this Court does not grant them protection, their lives may be endangered.

In view of the order proposed to be passed, there is no need to issue notice to private respondent. With the consent of learned counsel appearing for the parties, this writ petition is being disposed of finally at this stage in terms of the Rules of the Court.

The Supreme Court in a long line of decisions has settled the law that where a boy and a girl are major and they are living with their free will, then, nobody including their parents, has authority to interfere with their living together. Reference may

be made to the judgements of the Supreme Court in the cases of **Gian Devi v. The Superintendent, Nari Niketan, Delhi and others, (1976) 3 SCC 234; Lata Singh v. State of U.P. and another, (2006) 5 SCC 475; and, Bhagwan Dass v. State (NCT of Delhi), (2011) 6 SCC 396**, which have consistently been followed by the Supreme Court and this Court, as well as of this Court in **Deepika and another v. State of U.P. and others, 2013 (9) ADJ 534**. The Supreme Court in *Gian Devi* (supra) has held as under:

"7. ... Whatever may be the date of birth of the petitioner, the fact remains that she is at present more than 18 years of age. As the petitioner is sui juris no fetters can be placed upon her choice of the person with whom she is to stay, nor can any restriction be imposed regarding the place where she should stay. The court or the relatives of the petitioner can also not substitute their opinion or preference for that of the petitioner in such a matter."

Having regard to the facts and circumstances of the case, I am of the view that the petitioners are at liberty to live together and no person shall be permitted to interfere in their peaceful living. In case any disturbance is caused in the peaceful living of the petitioners, the petitioners shall approach the Senior Superintendent of Police, Agra i.e. respondent no.2, with a copy of this order downloaded from the website of the High Court, who shall provide immediate protection to the petitioners.

A liberty is granted to the private respondent that if the documents brought on the record are fabricated or forged, it will be open to him to file a recall application for recall of this order.

As registration of marriage is compulsory vide decision of the Supreme Court reported in **(2006) 2 SCC 578 and (2008) 1 SCC 180 Seema (Smt.) Vs. Ashwani Kumar**, the petitioners undertake to get their marriage registered within a period of two months.

If the petitioners could not get their marriage registered within the stipulated period herein above, the protection granted under this order shall stand automatically vacated.

It is made clear that this Court has not adjudicated upon the alleged marriage of the petitioners and this order in no way expresses opinion about the validity of their marriage.

With the aforesaid observations, the writ petition is partly **allowed**. No order as to costs.

Order Date :- 1.7.2021
SK Goswami