

(2009) 06 AHC CK 0042

Allahabad High Court

Case No: None

Anil Kumar And
Another

APPELLANT

Vs

State of U.P.And
Others

RESPONDENT

Date of Decision: June 4, 2009

Hon'ble Judges: Sunil Ambwani, J and Devendra Kumar Arora, J

Final Decision: Dismissed

Judgement

D.K. Arora, J.

On the averments made in the writ petition, we are satisfied that the matter is urgent to be entertained in the summer vacations.

2. Heard learned counsel for the petitioners. Learned standing counsel appears for respondent nos. 1 to 3. The respondent no. 4 is the father of petitioner no.2.

3. By this writ petition the petitioners, claiming to be of major and of marriageable age and entered into marriage with their consent, have prayed for directions to the respondents as well as their relatives arrayed as private respondent and the police not to take any action against the petitioners. They have further prayed that the police should not arrest them during the pendency of the writ petition.

4. Paragraphs 6 & 7 of the writ petition, allegedly giving cause of action to the petitioners, are quoted as below:

"6. That after the marriage the petitioners are living as husband and wife but the respondent No. 4 is regularly harassing the petitioners in various manner and therefore the petitioners tried to get help of the local police but the police persons are not making help because the police persons are working their work under the pressure of the respondent No.4 as such the petitioners are unable to get the help from the police.

7. That on 26.5.2009 the respondent no. 4 went to the house of the petitioner No. 1 and in absence of the husband of the petitioner No. 2 the respondent No. 4 along with other unknown persons came to wife of the corpus and forcibly tried to kidnap her but niehgbour of the petitioner No. 1 made help of the petitioner no. 2, as such the respondent no. 4 threatened the petitioner no. 1 and said that police persons will implicate in the criminal case otherwise the petitioner no. 2 left her matrimonial home.."

5. The petitioners have relied upon Lata Singh vs. State of UP AIR 2006 SC 2522 in support of their submission, that there is no law prohibiting intercaste marriage or marriage between the boy and the girl of a different religions. At best the family may socially avoid them, but that they cannot be subjected to harassment, torture and intervention in their life by police.

6. In Lata Singh's case a first information report was lodged against the boy and the girl and that the brothers of Lata Singh had beaten up all the family members, cut away the crops and locked the boy's shop. Lata Singh had appeared before the State Women Commission in Rajasthan and had also recorded her statement before the Magistrate. The Supreme Court had, in such circumstances, quashed the prosecution and had directed that the parents of the boy and the girl and the police shall not interfere in their married life.

7. If the petitioners are of marriageable age and have married with their consent, there is no reason as to why the police would register a criminal case and to prosecute them.

8. The writ petition is based only upon apprehensions. From the pleadings and the arguments of the counsel of the petitioner, we do not find that the apprehension is real and apparent. There are no specific allegations with regard to harassment and torture. The writ petition appears to have been filed only for the purpose of getting the marriage legally approved by the Court. The petitioners have not made out any case which may give them cause of action to file the writ petition for protection from harassment by the private respondents and the police. On their own admission no first information report has been registered, so far.

9. Learned counsel for the petitioners submits that the Court may give the petitioners liberty to record their statements before the Magistrate. We do not find that the petitioners require any permission in that regard. If a criminal case is registered, it will be open to the petitioners to record their statements before the Magistrate, as per provisions contained in the Criminal Procedure Code.

10. The writ petition is dismissed with these observations.