

Court No. - 42

Case :- WRIT - C No. - 19482 of 2020

Petitioner :- Mizba Khan And Another

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Javed Habib

Counsel for Respondent :- C.S.C.

Hon'ble Ashwani Kumar Mishra,J.

This petition has been filed by the petitioners for a direction upon the respondents not to interfere with their marital life and liberty. It is claimed that both petitioner nos.1 and 2 are major and have solemnized marriage out of their own free will. It is alleged that private respondent/s is interfering with their marital life and liberty.

Law is settled that it is the right of married couple to live peacefully without any interference in case they are major. Hon'ble Supreme Court in Lata Singh Vs. State of U.P., AIR 2006 SC 2522 has already issued following directions in para-17 which reads as Under:-

"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."

In view of the clear enunciation of law by the Hon'ble Apex Court in the above matter, it is obligatory for the concerned authorities to ensure compliance of the above directions in view of Article 141 of the Constitution of India. Above law has since been reiterated in Bhagwan Dass Vs. State (NCT of Delhi), (2011) 6 SCC 396. In case petitioners face any genuine threat to their life and liberty, or they are harassed, contrary to law laid down in Lata Singh (supra), it shall be open for them to approach the Senior Superintendent of Police of the District concerned and furnish necessary details in that regard, like

proof of their majority, marriage and alleged harassment etc., who shall take all steps as may be required in law to ensure that petitioners' life and liberty are not interfered with, keeping in view the directions issued in Lata Singh (supra). The filing of this petition or the order of its disposal, however, would not be treated as proof of marriage between the petitioners.

Since the writ petition is being decided at the stage of fresh motion itself and notice has not been issued to private respondent/s, as such, liberty is given to them to file a recall, in case any of the averments made in the writ petition are found to be incorrect, and this order shall stand automatically vacated, in case any First Information Report has been lodged in the matter.

Subject to the observations made above, the writ petition stands disposed of.

Order Date :- 26.11.2020

Anil