

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.W.P. No.8 of 2014.

Judgment reserved on : 17.04.2014.

Date of decision: 23.04.2014.

Priyanka and another

Versus

State of Himachal Pradesh & others

.....Petitioners.

..... Respondents.

Coram

The Hon'ble Mr. Justice Rajiv Sharma, Judge.

The Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge.

Whether approved for reporting?¹ Yes

For the Petitioners : Mr.Rajinder Singh Dogra,
Advocate.

For the Respondents : Mr.V.S.Chauhan and Mr.Romesh
Verma, Additional Advocate
Generals, for respondents No.1 to
5.

Tarlok Singh Chauhan, Judge.

The petitioners claim to be 'run away couple' and seek protection of life and liberty on the ground that they have performed marriage voluntarily being adults on 07.04.2014. Being an inter-caste marriage they have an apprehension of their being harassed by the respondents, more particularly, respondent No.6, who is father of the petitioner No.1. They have prayed for the following reliefs:-

"a) That the respondents may be directed to provide the security/Police protection to the petitioners so that the respondent would not kill them and may not damage their property.

b) That the action may be taken against the police as the police is not taking any action despite of so many application submitted by the petitioners."

Whether the reporters of the local papers may be allowed to see the Judgment?

2. We called the parties and talked to them for sometime. After talking to them, we are of the firm opinion that the present petition has been filed with an ulterior motive to get a certificate in the form of the protection order from the Court that the petitioners are, infact, married to each other which course of action is not permissible in law. It is the duty of the Court to guard itself against the mischief of a litigant(s) misusing the process of Court.

3. We are not oblivious to the fact that the cases of such nature relating to 'run away couples' are repeatedly coming before this Court and, therefore, it is not only high time but imperative that certain guidelines and directions are issued to deal with such cases. Accordingly, we proceed to issue following guidelines and directions:-

- (i) Whenever any representation is received by the S.P. of concerned District regarding the marriage of a young couple under a threat or an apprehension of infringement of the right of life and liberty at the instance of the family members of one of the spouses or even at the instance of the police, the S.P. concerned will consider the representation and will himself/herself look into the matter and issue necessary directions to maintain a record of the said intimation under Chapter 21 of the Punjab Police Rules;
- (ii) On receipt of abovesaid intimation of marriage by any police officer, necessary directions will be issued to the concerned Police Station to take necessary steps in accordance with law to enquire into the matter by contacting the parents of both boy and the girl. The matter regarding age, voluntary consent of the girl and grievance of her family will be determined.
- (iii) In the eventuality of any complaint of kidnapping or abduction having been received from any of the family members of the girl, the boy (husband) will not be arrested

unless and until the prejudicial statement is given by the girl(wife). Arrest should generally be deferred or avoided on the immediate receipt of a complaint by the parents or family members of the girl taking into consideration the law laid down by the Hon'ble Supreme Court in Joginder Kumar Versus State of U.P. and others (1994) 4 SCC 260;

- (iv) If the girl is major (above 18 years), she cannot forcibly be taken away by police to be handed over to her parents against her consent. Criminal force against the boy cannot be used;
- (v) In case of threat to the young couple of criminal force and assault at the hands of the private persons, the same will be dealt with in accordance with law;
- (vi) In case of any threat to the breach of peace at the hands of the family members of either of the couple it will always be open to the State authorities to take up the security proceedings in accordance with law;
- (vii) It will not be open to the "run away couple" to take law in their hands pursuant to the indulgence shown by the police on the basis of their representation sent to the SP of the concerned District;
- (viii) If despite the intimation having been sent to the SP there is an apprehension or threat of violation of right of personal life and liberty or free movement, the remedy of approaching the High Court should be the last resort;
- (ix) In case there is an authority constituted for issuance of marriage certificate as per the law laid down by the Supreme Court in Seema (Smt) Versus Ashwani Kumar (2006) 2 SCC 578, (2008) 1 SCC 180, (2008) 7 SCC 509 case in the concerned districts, the couple of so called 'run away marriage' should get the marriage registered in compliance with the directions of the Supreme Court and a copy of the same should also be forwarded to the police alongwith the representations or any time subsequent thereto;

- (x) Incase, it is found that the girl, who has been enticed away, is a minor and is either not willing to go with her parents or her parents have refused to accept and take her home, then she will be taken to the 'Nari Niketan' or other Shelter Homes where her protection and safety shall be of paramount consideration and ensured at all costs. In no case would the minor girl be permitted to accompany her alleged husband since the marriage is void, abinitio being in contravention of Section 12 of the Hindu Marriage Act;
- (xi) Nothing said hereinabove will prevent the immediate arrest of a person who fraudulently entices a girl with false promises and exploits her sexually as per the statement of the girl.

4. We have already held the petition to be not bonafide and, therefore, the same is dismissed.

5. We have no doubt in our mind that the representation (Annexure P-3) preferred by the petitioners before the S.H.O., Police Station, Dehra, District Kangra, will now be decided in accordance with the guidelines and directions issued above.

It is, however, clarified that the present order shall not be treated as a stamp of this Court on the marriage of the parties.

6. The petition stands disposed of, so also the pending applications, if any.

**(Rajiv Sharma),
Judge.**

**April 23, 2014.
(krt)**

**(Tarlok Singh Chauhan),
Judge.**