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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 2597/2023**

MUSKAN SINGH & ANR.

..... Petitioners

Through: Mr. Gurpreet Singh and
Mr.Kamal, Advocates.

versus

STATE OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Sanjeev Bhandari, ASC for the
State.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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12.09.2023

CrI.M.A. 24480/2023 (for exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. This petition under Article 226 of the Constitution of India read with Section 482 Cr.P.C. has been filed by the petitioners seeking issuance of directions to respondent nos. 1 and 2 to provide protection to the petitioners against life and liberty threats given by respondent nos. 3 and 4, being the parents of petitioner no.1.

4. It is stated that the petitioners, being major, got married under the Special Marriage Act, 1954 on 31.07.2023. The petitioners are now receiving constant threats from respondent nos. 3 and 4, as the petitioners belong to different religions and have married against their wishes. It is thus submitted by learned counsel for the petitioners that the petitioners be provided police protection against the respondent nos. 3 and 4.

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5. The right to marry is an incident of human liberty. The right to marry a person of one's choice is not only underscored in the Universal Declaration of Human Rights, but is also an integral facet of Article 21 of the Constitution of India which guarantees the right to life.

6. The Hon'ble Supreme Court has highlighted the right of every individual to marry a person of his or her choice in *Shafin Jahan v. Asokan K.M.*, (2018) 16 SCC 368, wherein the following observations have been made:-

“86. The right to marry a person of one's choice is integral to Article 21 of the Constitution. The Constitution guarantees the right to life. This right cannot be taken away except through a law which is substantively and procedurally fair, just and reasonable. Intrinsic to the liberty which the Constitution guarantees as a fundamental right is the ability of each individual to take decisions on matters central to the pursuit of happiness. Matters of belief and faith, including whether to believe are at the core of constitutional liberty. The Constitution exists for believers as well as for agnostics. The Constitution protects the ability of each individual to pursue a way of life or faith to which she or he seeks to adhere. Matters of dress and of food, of ideas and ideologies, of love and partnership are within the central aspects of identity. The law may regulate (subject to constitutional compliance) the conditions of a valid marriage, as it may regulate the situations in which a marital tie can be ended or annulled. These remedies are available to parties to a marriage for it is they who decide best on whether they should accept each other into a marital tie or continue in that relationship. Society has no role to play in determining our choice of partners.”

7. It is also reiterated that the choice to choose a life partner cannot in any way be affected by matters of faith and religion. When the Constitution of India guarantees to each individual the right to freely practice, profess and propagate any religion, it also guarantees every individual the autonomy for these aspects in matters of marriage. It is not for the State or the society or even the parents of the parties involved

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to, in any way, dictate the choice of life partner of a person or curtail and limit such rights of an individual when it involves two consenting adults.

8. The petitioners in the present case are major and well within their rights to marry each other unaffected by religion, faith and beliefs. The respondent nos. 3 and 4, though the parents of the petitioner no.1, cannot be permitted to threaten the life and liberty of the petitioners, who do not require any social approval for their personal decisions and choices.

9. Article 21 of the Constitution of India gives Protection of Life and Personal Liberty to all persons whereby it is the inherent right of every individual to exercise personal choices, especially in matter relating to marriage. Thus, in the opinion of this Court, the petitioners herein are well and truly entitled for protection under Article 21 of the Constitution of India.

10. Accordingly, the petition is allowed and it is directed that the contact number of the concerned Beat Constable and the concerned SHO shall be provided to the petitioners and they shall be free to call or get in touch with either of them, as and when the need so arises.

11. Needless to say that the SHO concerned and Beat Constable shall also take all possible steps to provide the adequate assistance and protection, as needed, to the petitioners, in accordance with law.

12. Accordingly, the petition, along with the pending application, is disposed of.

SAURABH BANERJEE, J

SEPTEMBER 12, 2023

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