

WWW.LIVELAW.IN**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CRIMINAL APPLICATION NO. 1404 of 2021**

=====

SAMIIRKHAN FAIZULLAHKHAN PATHAN

Versus

STATE OF GUJARAT

=====

Appearance:

MUHAMMADYUSUF M KHARADI(9509) for the Applicant(s) No. 1

MS NAMRATA H DAVE(10172) for the Respondent(s) No. 5,6

NOTICE SERVED(4) for the Respondent(s) No. 2,3,4,7,8

MR JIRGA JHAVERI, ADDITIONAL PUBLIC PROSECUTOR(2) for the
Respondent(s) No. 1

=====

CORAM: **HONOURABLE MS. JUSTICE SONIA GOKANI**

and

HONOURABLE MS. JUSTICE SANGEETA K. VISHEN

Date : 15/02/2021

ORAL ORDER**(PER : HONOURABLE MS. JUSTICE SONIA GOKANI)**

1. In our last order dated 12.2.2021, we had acknowledged the fact that Mr. D.V. Tadvi, Police Inspector, Karanj Police Station, Ahmedabad filed an affidavit since this Court directed on 8.2.2021 for the same. He has pleaded that he holds the Court in the highest esteem and there cannot be any intention, much less any deliberate or willful intention on his part or any officers of the department to disobey or flout the directions of this Court. He also has tendered an unconditional apology and has assured that he shall be more careful in the future.

2. According to him on 4.1.2021, the corpus and the petitioner were present before the office of Registrar of Marriage at Gheekanta. The family of corpus came to the office of Registrar and because of their intent to marry, there was a ruckus. The petitioner dialed No.100 for help. The control message was received from PCR Van and the officer went to the office of Sub-Registrar and they were all called at the Police

WWW.LIVELAW.IN

Station. Corpus's custody was taken by the family members before solemnization of the marriage. She had shown her willingness to join the petitioner and they went to the residence of petitioner at Fatehwadi with police protection.

3. On 7.1.2021, the mother and the brother moved another application before the police station. She also narrated that she had a heart ailment and the father of the corpus had passed away 10 years back and the corpus was not attending the training of LRD at Training Centre, Gomtipur. She insisted on meeting the daughter to save her career and because of this emotional outburst of the mother and noting her health condition, as a part of a social policing, with the D-Staff P.S.I. and lady constables the petitioner's residence was visited and she was requested to attend the police station and meet the mother. She was not called alone, but she and the petitioner both were called as they agreed to meet the mother. Therefore, at night on 7.1.2021 they were called to meet the mother and brother both. She then decided to join her mother and with her consent, she was provided the police protection and she went to the Training Centre at Gomtipur and petitioner was also sent to his residence with police protection. All documentary evidences are annexed to substantiate his version and urge that it is only to strike a balance in the case of interfaith marriage that he needed to call her, noticing the mother's condition.

4. We have heard the learned Additional Public Prosecutor Ms. Jirga Jhaveri for the respondent and learned advocate Mr. M.A. Kharadi for the petitioner.

5. It is urged by Learned Additional Public Prosecutor Ms.

WWW.LIVELAW.IN

Jhaveri, that there was no ill-intent and in fact, at the time of performance of the marriage, pursuant to the directions issued by this Court on 8.2.2021, all required police protection has been provided by this officer. She also has urged that in future, there shall be no repetition of such occurrences. He is aware that no lady member is to be called after sunset and before sunrise to the police station.

6. Learned advocate Mr. Kharadi for the petitioner says that it is undoubtedly an action which is contrary of law and the explanation from the police officer is of his being swayed by the emotions of the mother. He further urged that it cannot be disputed that, later on, this very officer has made arrangement for all kinds of protection.

7. Having heard both the sides and also minutely considering the affidavit on behalf of the respondent No.3, we do find the breach on the part of the officer and his action contrary to law of having called the lady after sunset and before the sunrise. We also notice the fervence with which the mother of the corpus was pursuing this matter. His emphasis, therefore, that he was swayed by the emotional outburst and the health condition of the mother. We are of the opinion that these are the moments which every officer faces routinely and that is where his training, his conviction and his adherence to the law would be required to govern him and the system. The law is amply clear for the safeguard of women, and here is the corpus, who herself was part of a protection force, who later on has married to the petitioner. Undoubtedly, she was with the petitioner all along and not called alone at the police station.

WWW.LIVELAW.IN

8. Considering the overall circumstances and his positive role pursuant to the directions issued by this Court on 8.2.2021, where there appears to be an attempt to mend his ways, when he has tendered his unconditional apology and assured the Court not to repeat the same in future, emphasizing that such occurrence shall never happen in the future, we deem it appropriate to put an end to the matter. We also recommend and expect the State Police Academy to indicate the need of strict adherence to law and the principles established under the law, as also inculcate sensitivity with dispassionate actions, to give fillip to the constituted ethos.

9. The officer concerned shall ensure the directions of this Court of police protection so far as the corpus is concerned.

10. The petition, is therefore, disposed of.

(SONIA GOKANI, J)

MM MIRZA/BINOY B PILLAI

(SANGEETA K. VISHEN, J)

THE HIGH COURT
OF GUJARAT
WEB COPY
WWW.LIVELAW.IN