

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (Criminal) No.1601 of 2020

Sameer Ali & anotherPetitioners

Versus

State of Uttarakhand & othersRespondents

Present:- Mr. Mohd. Matloob, Advocate, for the petitioners.
Mr. J.S. Virk, Deputy Advocate General with Mr. K.S. Rawal, AGA, for
the State/respondent nos.1 to 3.
Mr. Sahil Mullick, Advocate, for the private respondent no.4.

Hon'ble Sudhanshu Dhulia, J.
Hon'ble Alok Kumar Verma, J.

This case has been heard through video conferencing.

2. In this case, the petitioners before this Court alleged to be a married couple and their case is that after petitioner no. 2 had converted to "Islam" i.e. faith of petitioner no. 1, the two were married on 28.09.2020. Since both the petitioners belong to different faiths, their marriage was being opposed at the hands of private respondent no. 4, who is father of petitioner no. 2. This Court purely in the interest of justice and in order to protect the life and liberty of both the petitioners had passed the following orders on 01.10.2020:-

"This case has been heard through video conferencing.

2. Both the petitioners belong to different faiths and their case is that after petitioner no.2 had converted to "Islam" i.e. faith of the petitioner no.1, the two were married on 28.09.2020. There is a prima facie proof of this, which they have annexed to the writ petition. They seek police protection from this Court as they have an apprehension that the private

respondent who is father of petitioner no.2 may physically harm them.

3. All the same, it has been pointed out by the learned State Counsel that this is in clear violation of the Uttarakhand Freedom of Religion Act, 2018, where prior to such conversion, an application has to be moved before the concerned District Magistrate, which has presently not been done.

4. Therefore, we say nothing either on the conversion of petitioner no.2 or the marriage, as in view of the alleged anomalies pointed out at the Bar that under the Uttarakhand Freedom of Religion Act, 2018, particularly, in violation of Section 8 of the Act, no such information has been given to the concerned District Magistrate.

5. Presently this case is being heard through video conferencing, in which both petitioner nos.1 and 2 are presently connected to us who are present in person before this Court. This Court also had an opportunity to interact with them. Petitioner no.2 has apprised this Court that she has married to petitioner no.1 on her own free will and she was not under any pressure. The petitioners have also apprised this Court that they have threat perception at the hands of the private respondent no.4.

6. In the interest of justice and in view of the law laid down by the Hon'ble Apex Court in the case of **Lata Singh Vs. State of U.P. and another** reported in **(2006) 5 SCC 475** and **S. Khushboo vs. Kanniammal and another** reported in **(2010) 5 SCC 600**, as an interim measure, we direct the Senior Superintendent of Police, Dehradun to coordinate with the subordinate officers of Police and give suitable directions to the concerned SHO, to provide necessary protection to the petitioners as there is a threat perception at the hands of respondent no.4.

7. Three weeks' time is granted to the respondents to file counter affidavit.

8. List this matter on 25.11.2020.

9. Interim relief application (CLMA No.8057 of 2020) stands disposed.

10. Let a certified copy of this order be supplied today itself on payment of usual charges.”

3. There was an averment in the writ petition that petitioner no.2 had converted to “Islam” i.e. faith of the petitioner no.1, the two were married on 28.09.2020.

4. What is most important to note here is that in the State of Uttarakhand, there is an Act known as Uttarakhand Freedom of Religion Act, 2018, under which it is the duty of the concerned Priest under sub-section (2) of Section 8 of the Uttarakhand Freedom of Religion Act, 2018 to give prior intimation to the concerned District Magistrate, before this conversion or the marriage. Evidently this has not been done.

5. We direct the District Magistrate, Dehradun to conduct a detail inquiry into this matter, as many similar cases are repeatedly coming before us. Our intention is to inform the concerned persons about the illegalities and the legal implications in the matter, so that a prior information is given to the concerned District Magistrate, which is the mandate of law. In all similar cases, which are coming before us, we find that such intimation is not given under sub-section (2) of Section 8 of the Uttarakhand Freedom of Religion Act, 2018 by the concerned Priest.

6. The father of the Girl Mr. Harish Kumar i.e. respondent no.4 is also before us, who has apprised this Court that the girl allegedly eloped on 28.09.2020 and petitioner no.2 was converted to “Islam” on the same day

and according to Mr. Harish Kumar, it is not possible and therefore a wrong statement has been given by the petitioners on the affidavit before this Court.

7. We would like the District Magistrate, Dehradun to conduct an inquiry in all these aspects as well.

8. List this matter on 24.11.2020.

9. Meanwhile, the father of the girl – Mr. Harish Kumar submits that he would like to meet his daughter i.e. petitioner no.2.

10. Learned counsel for the petitioners Mr. Mohd. Matloob has also very fairly submitted that he shall ensure the presence of both the petitioners at Dehradun District Court Premises, at 11:00 AM on 24.11.2020.

11. The District Judge, Dehradun is hereby directed to ensure compliance of this order. He should particularly ensure that full security measures are in place in the District Court Premises, at Dehradun, so that no untoward incident happens on the said date.

12. Let a certified copy of this order be provided to the District Magistrate, Dehradun as well as to the District Judge, Dehradun for onward compliance.

(Alok Kumar Verma, J.)

(Sudhanshu Dhulia, J.)

21.11.2020

Nitesh/