

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

Writ Petition (Criminal) No.1558 of 2020

Shri Rajat Saini & another .....Petitioners

Versus

State of Uttarakhand & others .....Respondents

**Present:-** Mr. Siddhartha Bhatia, Advocate, for the petitioners.  
Mr. J.S. Virk, Deputy Advocate General with Mr. K.S. Rawal, Brief Holder, for the State/respondent nos.1 to 3.  
Mr. Mohd. Umar, Advocate, for the private respondent nos.4, 5 and 6.

**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 "Hindu" i.e. faith of petitioner no. 1, the two were married on 09.06.2020. Since both the petitioners belong to different faiths, their marriage was being opposed at the hands of private respondent nos. 4, 5 & 6, who are the brothers of petitioner no. 2 and since they belong to the different faiths, 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 order on 25.09.2020:-

"This case has been heard through video conferencing.

2. Petitioners before this Court claim to be a married couple. As per the averments made in the writ petition their marriage was solemnized on 09.06.2020. Petitioner no.1 belongs to Hindu religion, whereas petitioner no.2 belongs to Muslim religion. It has been stated in the petition that petitioner no.2 is converted to Hindu religion and thereafter

married to petitioner no.1 as per Hindu rites and ceremonies.

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 as 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 as well as the parents of petitioner no.2 are presently connected to us. This Court also had an opportunity to interact with them. The petitioners have apprised this Court that they have threat perception at the hands of the private respondent nos.4, 5 and 6.

6. However, since there is an apprehension raised by the petitioners to their life and liberty at the hands of private respondents, we pass the following order:-

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 nos.4, 5 and 6.

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

List this matter on 19.10.2020.

Interim relief application (CLMA No.7756 of 2020) stands disposed.

Parties to be present on the next date of listing.”

3. There was an averment in the writ petition that petitioner no.2 had converted to “Hindu” i.e. faith of the petitioner no.1, the two were married on 09.06.2020.

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 a 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. Although the conversion has taken place at Najibabad, which is in District Bijnor, which is a part of Uttar Pradesh, we presently direct the District Magistrate, Pauri Garhwal, which is an adjoining district, to conduct an inquiry into the matter and file a report before this Court within a period of two weeks.

6. Interim order dated 25.09.2020 is extended till the next date of listing.

7. The mother of the girl insists that they may be allowed to take the girl with them, at least for two or three days. Since this prayer is vehemently rejected by petitioner

no.2, we are not in a position to accept this request of the mother of the girl.

8. Vide order dated 20.11.2020, we have already directed to the Chowki In-charge, Dharmawala, Vikasnagar, District Dehradun to be present before this Court on 23.11.2020. For that limited purpose, we shall hear the matter on 23.11.2020.

9. List this case on 23.11.2020.

**(Alok Kumar Verma, J.)**

**(Sudhanshu Dhulia, J.)**

21.11.2020

Nitesh/