

Court No. - 67

Case :- CRIMINAL MISC. WRIT PETITION No. - 15096 of 2023

Petitioner :- Km. Radhika And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Shadab Ahmad, Sadaqat Ullah Khan

Counsel for Respondent :- G.A., Dharendra Kumar Verma, Srawan Kumar Swarnkar

Hon'ble Rahul Chaturvedi, J.

Hon'ble Mohd. Azhar Husain Idrisi, J.

Heard Sri Sadaqat Ullah Khan, learned counsel for the petitioners, Sri Shrawan Kumar Swarnkar, learned counsel for the respondent no.4 as well as Sri Ajay Kumar Sharma, learned A.G.A. and perused the record.

By means of the present petition, the petitioners are invoking the extra-ordinary power of this Court by means of Article 226 of the Constitution of India challenging the FIR dated 17.08.2023 in case crime no.0251 of 2023 under section 366 IPC Police station-Refinery, District-Mathura.

Mr. Ahsan Firoz is the cousin of petitioner no.2, who has sworn the affidavit claiming himself to be the cousin in support of the petition filed by the aforesaid petitioners.

The prayer sought by the petitioners is as follows :-

"(i) Issue a writ, order or direction in the nature of certiorari quashing the impugned First Information Report dated 17.08.2023 under section 366 IPC having case crime no.0251 of 2023, Police station-Refinery, District-Mathura lodged by respondent no.4 in respect of petitioner.

(ii) Issue a writ, order or direction in the nature of mandamus commanding the respondents not to arrest the petitioner in pursuance of the First Information Report dated 17.08.2023 under section 366 IPC having case crime no.0251 of 2023, Police station-Refinery, District-Mathura lodged by respondent no.3."

We have heard learned counsel for the petitioners at length at the admission stage itself. In the opening arguments, learned counsel for the petitioners states that the petitioners who are ostensibly of

the different religion(Hindu and Muslim), are in torrid affair with each other and petitioner no.2 have enticed away the girl on 17.08.2023 at 12 in the noon of which the FIR was registered at 19:02 hours on the same day by one Mithilesh against sole named accused Sohail Khan@Sohil, petitioner no.2. The allegation is that the informant claims that her daughter Ms.'R' (20 years) joined the company of petitioner no.2 to some unknown destination. The mobile number of Sohail is 8171720606. She also alleges that Sohail Khan@Sohil is after her daughter and anything untoward may happen to her daughter.

Sri Sadaqat Ullah Khan, learned counsel for the petitioners, at the outset, states that the petitioners came before this Court seeking protection from the police as the couple have decided to "remain in live-in relationship". It is further contended by learned counsel for the petitioners that as per High School Certificate, age of victim Ms. 'R' is 18th September, 2002 and as such, it is stated that she is major girl of 20 years and has every right to decide her future and she has chosen petitioner no.2 as her boyfriend with whom she wants to have live-in relationship.

Learned counsel for the petitioners secondly argued that Smt. Mithilesh who is the informant, is not the real mother of the victim Ms. 'R'. It is further stated that respondent no.4 used to treat the petitioner no.1 Ms. 'R' in a most inhuman way and used to physically torture her. It is further contended that petitioner no.1 is the daughter of Mr. Pradeep who has never come forward to lodge the FIR but the informant Ms. Mithilesh who is her Aunt(bua) lodged this FIR. All these matters are subject matter of investigation and cannot be looked into at this stage.

We are afraid to accept this superficial submissions advanced by learned counsel for the petitioners to the extent that this cannot be the ground for quashing of the FIR. The role of the FIR is an information given to the police for which polices takes action against known or unknown accused persons. It hardly makes any difference that who has lodged the FIR, whether she is the mother or her aunt.

Learned counsel for the informant has vehemently opposed the submissions advanced by learned counsel for the petitioners by making a mention that the petitioner no.2 has got a chequered past and an FIR No.0283 of 2017 police station-Chhata, District-Agra has been lodged against him under section 2/3 of the U.P. Gangster Act and at this strength, it is contended by learned counsel for the informant that the petitioner is road-romeo and vagabond and who

have no future for his own life and with all certainty, he would ruin the life of the girl.

The Court has its own reservation regarding such type of relationship and shall not be misconstrued that the Court is passing any remark or validate such type of relationship of the petitioners or protect them from any legal proceeding instituted in accordance with law. The Court feels that such type of relationship is more of infatuation than to have stability and sincerity. Unless and until the couple decides to marry and give the name of their relationship or they are sincere towards each other, the Court shuns and avoid to express any opinion in such type of relationship.

No doubt that Hon'ble the Apex Court in number of cases, have validated the live-in relationship but in the span of two months in a tender age of 20-22 years, we cannot expect that the couple would be able to give a serious though over their such type of temporary relationship. As mentioned above, it is more of infatuation against opposite sex without any sincerity. The life is not a bed of roses. It examines every couple on the ground of hard and rough realities. Our experience shows, that such type of relationship often result into timepass, temporary and fragile and as such, we are avoiding to give any protection to the petitioner during the stage of investigation.

With the aforesaid observations, the present petition stands REJECTED.

Let copy of this order may be communicated to the C.J.M. concerned as well as S.H.O., Police Station-Refinery, District-Mathura forthwith by the Registrar(compliance) through FAX as well as normal mode of service so that legal process may start flowing as per the procedure of law.

Order Date :- 25.9.2023

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