

Court No. - 81

Case :- WRIT - C No. - 1546 of 2024

Petitioner :- Raksha And Another

Respondent :- State Of Up And 4 Others

Counsel for Petitioner :- Subedar Mishra

Counsel for Respondent :- C.S.C.,Anurag Shukla

Hon'ble Mrs. Renu Agarwal,J.

1. Heard Shri Subedar Mishra, learned counsel for the petitioners and learned learned Standing Counsel for the State.

2. The present writ petition under Article 226 of the Constitution has been filed with the following prayers:

"(I) Issue a writ, order or direction in the nature of mandamus directing and commanding the respondents police authorities to provide the police protection to petitioners against the respondent no.4 and his family members.

(II.) Issue a writ, order or direction in the nature of mandamus commanding and directing the respondent nos. 4 & 5 and his relatives for not interference in peaceful live-in-relationship of the petitioners.

(III) Issue any other writ, order or direction which this Hon'ble court may deem fit and proper in the circumstances of the present case."

3. It is submitted by the learned counsel for the petitioners that both the petitioners are major as per their High School Certificates and they are living in live-in-relationship. The parents of petitioner no.1 are unhappy with this relationship. It is submitted that the petitioner no.2 have lodged F.I.R. against the parents of petitioner no.1 on 15.10.2023. It is further submitted by learned counsel for the petitioners that the parents of petitioner no.1 had solemnized the marriage of petitioner no.1 with respondent no.4, namely, Raju s/o Chhattar, R/o Mal Chhoti Kothi, District Mathura on 28.04.2017, when petitioner no.1 was 13 years old and minor. The alleged marriage of petitioner no.1 is invalid and therefore, she is voluntarily living in live-in-relationship with petitioner no.2 with her own sweet will.

4. It is also submitted by learned Counsel for the petitioners that both the petitioners have jointly moved an application for protection of their lives before the Senior Superintendent of Police, District Mathura, which has not yet been decided.

5. On the other hand learned Standing Counsel has submitted that petitioner no.1 is already married and his marriage has not been declared void by any Court of competent jurisdiction and she is in live-in-relationship with the petitioner no.2 and such type of relationship cannot be supported by the Court. Learned Standing Counsel has relied upon a decision of the Co-ordinate Bench of this Court in Writ-C No. 14443 of 2021, Smt. Aneeta and another Vs. State of U.P. whereby the Court has already disapproved such act by holding thus.

"We hold that we are not against granting protection to people who want to live together irrespective of the fact as to which community, caste or sex they belong to. If Devendra Kumar, who is legally wedded husband of petitioner no.1 has barged into the house of petitioner no.2, it is in the realm of criminal dispute for which she can move to the criminal machinery available in the country. But none law abiding citizen who is already married under the Hindu Marriage Act can seek protection of this Court for illicit relationship, which is not within the purview of social fabric of this country. The sanctity of marriage pre-supposes divorce. If she has any difference with her husband, she has first to move for getting separated from her spouse as per law applicable to the community if Hindu Law does not apply to her."

7. I have considered the submissions made by learned counsel for the parties and perused the record. From perusal of the record, it transpires that petitioner nos.1 and 2 are major. Petitioner no.1 is already legally wedded wife of the respondent no.4, Raju. She is disclosed in paragraph 5 of the petition that the respondent no.5, father of petitioner no.1 has solemnized her marriage with respondent no.4, namely, Raju on 28.04.2017 when she was 13 years old. As per High School Certificate, her date of birth is 18.05.2005, hence, she has attained the age of majority. No application is moved by the petitioner no.1 for dissolution of marriage after attaining the age of majority and still she is legally wedded wife of respondent no.4. Petitioner no.1 is living with petitioner no.2 in live-in-relationship having legally wedded husband without seeking divorce from the Court of competent jurisdiction. According to Hindu Law, a person having a spouse alive cannot live in illicit and live-in-relationship in contravention of the provisions of law. Hence, this type of relationship cannot be

supported by the orders of the Court. The court could not protect such type of relationship which is not supported by law. If the court indulge in such type of cases and grant protection to illegal relationship, then it will create chaos in the society, hence such type of relationship cannot be supported by the Court.

8. In view of the above discussion this Court does not deem it proper to permit the parties to such illegality as tomorrow petitioners may convey that this Court sanctified their illicit relations. Living in live-in-relationship cannot be at the cost of social fabric of this Country. Directing the police to grant protection to them may indirectly give our assent to such illicit relations.

9. Hence, this petition is dismissed.

10. However, it is clarified that this Court is not against live-in-relationship but is against illegal relations.

Order Date :- 15.2.2024

RKM