

IN THE HIGH COURT OF UTTARAKHAND

AT NAINITAL

THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE ALOK KUMAR VERMA

WRIT PETITION (CRL) NO. 2078 OF 2021

17TH NOVEMBER, 2021

BETWEEN:

Swaleha HussainPetitioner.

And

State of Uttarakhand & anotherRespondents.

Mr. A.S. Rawat, learned Senior Counsel assisted by Mr. Shakti Singh, learned counsel for the petitioner.

Mr. J.S. Virk, learned Deputy Advocate General for the State.

The Court made the following:

JUDGMENT: (per Hon'ble The Chief Justice Sri Raghvendra Singh Chauhan)

By order dated 16.11.2021, this Court had directed the Senior Superintendent of Police, Nainital to appear before this Court at 10:15 AM today. However, at 10:15 AM, this Court was informed by the Additional Superintendent of Police that they cannot locate the whereabouts the Senior Superintendent of Police, Nainital. This was a startling fact which was revealed. For, the police has all ways and means for locating its own officer wherever that officer may be. Therefore, this Court has directed the Director General of Police, Uttarakhand to appear before this Court through video conferencing, and also directed the Senior Superintendent of Police, Nainital to equally appear before this Court through video conferencing.

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2. Consequently, both the learned Director General of Police, Uttarakhand, and the Senior Superintendent of Police, Nainital are before this Court through video conferencing.

3. This Court had brought to the notice of the learned Director General of Police about the laxity in the present case. Despite the fact that the complainant had filed a complaint before the Station House Officer, P.S. Mallital, Nainital, no FIR was registered upon her complaint. This was in spite of the fact that the complaint did show the occurrence of a cognizable offence. Even on 14.11.2021, the complainant filed a detailed complaint naming three persons, but even then her statement under Section 161 of Cr.P.C. was not recorded by the concerned S.H.O.

4. Although an FIR was registered upon her second complaint, but no substantive action was taken by the police against the named persons. Hence, this Court has asked the learned Director General of Police to take action against the concerned S.H.O.

5. The learned Director General of Police, informs this Court that the S.H.O. shall be suspended, and a Disciplinary Enquiry shall be initiated for his dereliction of duty.

6. The learned Director General of Police is directed to submit a report with regard to the action taken against the concerned S.H.O.

7. Mr. J.S. Virk, the learned Deputy Advocate General appearing for the State, informs this Court that in compliance of the order dated 16.11.2021, the police protection has been provided to the complainant, and to her family members, and the subject property is being protected by the police.

8. Generally, this Court is flooded by number of criminal petitions being filed by those persons who, either intend to get married, and have gotten married. In many cases, those who entered into an inter-caste and inter-community marriage, or marriage against the wishes of the family, such persons are being threatened either by the family members or by anti-social elements.

9. Since this Court is needlessly being flooded by such petitions, this Court had directed the Director General of Police to issue a circular to the police force giving strict instructions that in case any complaint is received by any police officer with regard to such threat being given to a young couple, or those who intend to get married, immediately an FIR should be registered, and strict action against should be taken against those who threatened the young couple.

10. ~~Needless to say,~~ WWW.LIVELAW.IN adults have a right to marry a person of their choice. Therefore, no pressure tactic should be permitted either by the family members, or by friends of the family.

11. The learned Director General of Police informs this Court that on 28.09.2021, such a circular has been issued. However, as cases continue to list before this Court, he assures this Court that the circular shall strictly be followed by the police force. In case, it is discovered that the circular has not been followed in letter and spirit, the learned Director General of Police shall be free to take action against the delinquent officer.

12. With these directions, the writ petition is disposed of.

(RAGHVENDRA SINGH CHAUHAN, C.J.)

(ALOK KUMAR VERMA, J.)

Dated: 17th November, 2021

NISHANT