

(2018) 11 DEL CK 0138

In the Delhi High Court

Case No : Criminal Writ Petition No.3236 Of 2018

Abid Ali

APPELLANT

Vs

State Of Nct Of Delhi

RESPONDENT

Date of Decision : 13-11-2018

Acts Referred:

Constitution of India, 1950 — Article 226
Code of Criminal Procedure, 1973 — Section 164

Citation : (2018) 11 DEL CK 0138

Hon'ble Judges : Siddharth Mridul, J; Sangita Dhingra Sehgal, J

Bench : Division Bench

Advocate : Sanchit Guru, S.A. Rajput, Rahul Mehra, Chaitanya Gosain, Tushar Sannu

Final Decision : Disposed Off

Judgement

Siddharth Mridul, J

1. The present petition under Article 226 of the Constitution of India, has been instituted on behalf of the father of Shaziya, predicated on the allegation

that, the latter has been kidnapped and seeking a direction for her production before this Court.

2. At the outset, it is relevant to observe that, Shaziya has admittedly instituted a writ petition before the Hon'ble Allahabad High Court at U.P.,

seeking a direction for police protection based on her assertion that, the petitioner, who is her father, as well as, her mother, have threatened to cause her grave harm and bodily injury.

3. It is also relevant to observe that, Shaziya has made a statement under Section 164 of the Code of Criminal Procedure, 1973, duly recorded by a

Metropolitan Magistrate having jurisdiction, as follows:

â?? 19 ! 01.01.1999 ! !

! 09.01.2018 ! 30.01.2018

! UP !

! !

! ! .â??

4. Learned counsel appearing on behalf of the petitioner would, however, invite this Courtâ??s attention to an order dated 23rd April, 2018, passed by

a learned Single Judge of this Court, whereby, an earlier order granting protection to Shaziya was vacated, in view of the circumstance that, she was

stated to be a minor when she was kidnapped and she had already availed of an order of protection from the Allahabad High Court at U.P. and

further that, she along with her purported husband, had not furnished their correct address in the proceedings.

5. Insofar as, the allegations of Shaziya being a minor on the date of the alleged offence is concerned, it would be relevant to note that the Delhi Police

has after due investigation, filed a cancellation report before the Court of competent jurisdiction, in that behalf. In fact, it is further an admitted position

that, the petitioner has filed a protest petition before the said Court, which is pending adjudication.

6. Further more, there is no denial of the position that, Shaziya of her own volition, married Nazim Hussain, who is present before this Court and states

that, Shaziya is unable to travel to Delhi from Amroha, her matrimonial home at Village Mundha Imma, P.S. Didauli District, Amroha, U.P., on

account of being in the family way.

7. A plain reading of the statement of Shaziya under Section 164 Cr.PC further reflects that, she apprehending grave harm to her life and that of

Nazim Hussain her newlywed husband, at the hands of her parents, which includes the petitioner, had moved the Court having territorial jurisdiction

for protection and that, the High Court of Allahabad at U.P. had issued necessary directions, in that regard.

8. In view of the foregoing, we are satisfied that, Shaziyaâ??s well being and safety are assured. We are further cognizant of her apprehension in

relation to her well being and safety in view of the threats purportedly extended, as aforementioned, by her parents. In response to a submission made

on behalf of the petitioner, we have also asked him as to why he cannot visit Shaziya at Amroha, where she currently resides, to be told that, he

apprehends a threat to his life, if he were to visit Amroha, in view of his allegation that, his daughter has been forced to marry Nazim Hussain.

9. It is the duty of the Court to protect the newlyweds, as per the direction of the Honâ??ble Supreme Court of India in Ashok Kumar Todi vs

Kishwar Jahan reported as AIR 2011 SC 1254, wherein it has been held that, where the boy or the girl, as the case may be, are majors, and if they

undergo inter-caste or inter-religious marriage, it is the duty of all persons in the administration/police authorities throughout the country, that their

marital life should not be disturbed and the newlyweds ought not to be harassed. Needless to state that, the petitioner shall be at liberty to visit Shaziya

at her matrimonial home in Amroha, U.P. or seek further directions from the Court having territorial jurisdiction, in that behalf. We further direct

Nazim Hussain, who is present in Court before us to facilitate the petitioner and his wifeâ??s visit to Amroha, in the event the latter are desirous of

visiting Shaziya. We, however, make it clear that, we have expressed no opinion in relation to the allegation of kidnapping of Shaziya, made on behalf

of the petitioner.

10. In view of the foregoing discussion, we are of the considered view; no further directions are called for in the present proceedings. The writ petition

is accordingly disposed off.