

(2022) 09 GUJ CK 0176
In the Gujarat High Court

Case No : R/Special Criminal Application No. 10266 Of 2022

Hiralben Rameshji Thakor

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 29-09-2022

Acts Referred:

Constitution Of India, 1950 — Article 21, 226

Citation : (2022) 09 GUJ CK 0176

Hon'ble Judges : Niral R. Mehta, J

Bench : Single Bench

Advocate : Hardik Bharhmbhat, Moxa Thakkar

Final Decision : Partly Allowed

Judgement

Niral R. Mehta, J

1) RULE, returnable forthwith. Ms. Moxa Thakkar, learned Additional Public Prosecutor, waives service of notice of Rule for the respondents.

2) Considering the facts and circumstances in which the matter arises, it is being heard and decided finally, at this stage, with the consent of the learned counsel for the respective parties.

3) This petition under Article 226 of the Constitution of India, has been preferred by the petitioners, inter alia, with a prayer to direct the concerned police authorities to provide protection to them as per the application made by petitioner No.1, addressed to respondent No.3 and other police authorities.

4) It is the case of the petitioners herein that petitioner No.1 has married petitioner No.2 on 26th July, 2022 at Ghoghamba, district Panchmahal. Both the petitioners are adult and are, therefore, competent to take their own decisions. The marriage of the petitioners has been registered vide Entry No.257/20222 by the Marriage Registrar, Ghoghamba. The marriage of the petitioners has not been liked by the parents and relatives of petitioner No.1 and therefore, the

petitioners apprehend danger to their lives and property. In this regard, petitioner No.1 has made an application on which, according to the petitioners, no action has been taken.

5) Mr. Hardik Brahmhatt, learned advocate for the petitioners, has submitted that the petitioners are facing threats to their lives and liberty from the parents and relatives of petitioner No.1. Both the petitioners have attained the age of majority and have voluntarily decided to get married to each other. They are residing together but their married life is under threat, therefore, in consonance with the principles of law enunciated by the Supreme Court in *Lata Singh v. State of Uttar Pradesh & Anr.* [2007(1) GLH 41], protection may be provided to the petitioners.

6) Learned Additional Public Prosecutor, has submitted that the application preferred by petitioner No.1 would be dealt with in accordance with law.

7) This Court has heard learned counsel for the respective parties and taken into consideration the principles of law enunciated by the Supreme Court in *Lata Singh* (supra).

8) There is no dispute regarding the fact that both the petitioners are 19 and 23 years of age respectively and have attained the age of majority. There is enough material on record to indicate that the petitioners have got married to each other and their marriage has been registered. As such, having attained the age of majority, the petitioners are within their rights in taking their own decision regarding their lives.

9) In *Lata Singh* (supra), the Supreme Court has held as below:

"The caste system is a curse on the nation and the sooner it is destroyed the better. In fact, it is dividing the nation at a time when we have to be united to face the challenges before the nation unitedly. Hence, inter-caste marriages are in fact in the national interest as they will result in destroying the caste system. However, disturbing news are coming from several parts of the country that young men and women who undergo inter-caste marriage, are threatened with violence, or violence is actually committed on them. In our opinion, such acts of violence or threats or harassment are wholly illegal and those who commit them must be severely punished. This is a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-caste or inter-religious marriage the maximum they can do is that they can cut off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage. We, therefore, direct that the administration/police authorities throughout the country will see to it that if any boy or girl who is a major undergoes inter-caste or inter-religious marriage with a woman or man who is a major, the couple are not harassed by any one nor subjected to threats or acts of violence, and any one who gives such threats or harasses or commits

acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law.” (Para 7)

“We sometimes hear of 'honour' killings of such persons who undergo inter- caste or inter-religious marriage of their own free will. There is nothing honourable in such killings, and in fact they are nothing but barbaric and shameful acts of murder committed by brutal, feudal minded persons who deserve harsh punishment. Only in this way can we stamp out such acts of barbarism.” (Para 8)

10) The constitutional guarantee and right to life under Article 21 of the Constitution of India is the fundamental right of the petitioners. As such, the State is duty-bound to protect their lives, liberty and well-being.

11) On the facts and in the circumstance of the case, and considering the principles of law laid down by the Supreme Court in Lata Singh (supra), this Court is of the view that protection is required to be given to the petitioners in order to prevent any untoward incident or danger to their lives. The following directions are, therefore, issued:

Respondent No.3 – District Superintendent of Police, Palanpur, shall look into the application, addressed by petitioner No.1 and take necessary action to ensure that there is no danger to the lives and liberty of the petitioners.

12) The petition is partly allowed in the above terms. Rule is made absolute, accordingly. Direct Service is permitted.