

(2009) 04 AHC CK 0186
In the Allahabad High Court

Mamta Devi and anr

APPELLANT

Vs

State of U.P.and others

RESPONDENT

Date of Decision : 24-04-2009

Acts Referred:

Citation : (2009) 04 AHC CK 0186

Hon'ble Judges : Sunil Ambwani, J and Virendra Singh, J

Final Decision : Dismissed

Judgement

Virendra Singh, J.—Heard learned counsel for the petitioners. Learned standing counsel appears for respondent nos. 1, 2, 3 and 4. The respondent nos. 5 and 6 are the father and brother of petitioner no.1.

2. By this writ petition the petitioners, claiming to be of major and of marriageable age and entered into marriage with their consent, have prayed for directions to the respondents as well as their relatives arrayed as private respondent and the police not to take any action against the petitioners. They have further prayed that the police should not arrest them during the pendency of the writ petition.

3. In paragraph8 of the writ petition it is stated that the petitioner no. 1 has filed a complaint on 20.2.2009 against her father, brother and brotherinlaw before the Judicial Magistrate, Pilibhit in Complaint No. 201 of 2009 under Sections 323, 504, 506 IPC. In paragraph16 it is stated that respondent nos. 5 and 6 are harassing the petitioners with the help of respondent no. 4 and are trying to lodge the FIR and put them in jail. The FIR has not been lodged against the petitioner no. 2 till 10.4.2009.

4. The petitioners have relied upon Lata Singh vs. State of UP AIR 2006 SC 2522 in support of their submission, that there is no law prohibiting intercaste marriage or marriage between the boy and the girl of a different religions. At best the family may socially avoid them, but that they cannot be subjected to harassment, torture and intervention in their life by police.

5. In Lata Singh's case a first information report was lodged against the boy and the girl and that the brothers of Lata Singh had beaten up all the family members, cut away the crops and locked the boy's shop. Lata Singh had appeared before the State Women Commission in Rajasthan and had also recorded her statement before the Magistrate. The Supreme Court had, in such circumstances, quashed the prosecution and had directed that the parents of the boy and the girl and the police shall not interfere in their married life.

6. If the petitioners are of marriageable age and have married with their consent, there is no reason as to why the police would register a criminal case and to prosecute them.

7. The writ petition is based only upon apprehensions. From the pleadings and the arguments of the counsel of the petitioner, we do not find that the apprehension is real and apparent. There are no specific allegations with regard to harassment and torture. The writ petition appears to have been filed only for the purpose of getting the marriage legally approved by the Court. The petitioners have not made out any case which may give them cause of action to file the writ petition for protection from harassment by the private respondents and the police. On their own admission no first information report has been registered, so far.

8. Learned counsel for the petitioners submits that the Court may give the petitioners liberty to record their statements before the Magistrate. We do not find that the petitioners require any permission in that regard. If a criminal case is registered, it will be open to the petitioners to record their statements before the Magistrate, as per provisions contained in the Criminal Procedure Code.

9. The writ petition is dismissed with these observations.