

(2011) 12 AHC CK 0249
In the Allahabad High Court

Noorzabi and Another

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 21-12-2011

Acts Referred:

Citation : (2011) 12 AHC CK 0249

Hon'ble Judges : Amitava Lala, J and Pradeep Kumar Singh Baghel, J

Final Decision : Disposed Of

Judgement

Pradeep Kumar Singh Baghel, J.

Both the girl (petitioner no.1) and boy (petitioner no.2) are present before this Court and upon being questioned they replied as under:

Question made to petitioner no.1: Whether you have married the boy willingly ?

Answer: Yes I have married with the Shah Hisal (petitioner no.2)

Question made to petitioner no.2: Whether you will make a Fixed Deposit against the girl for a period of six month amounting to Rs. 1 Lakh.

Answer: Yes, I am ready to make Fixed Deposit of Rs.50,000/

Therefore, subject to making of Fixed Deposit of Rs.50,000/ against the petitioner no.1 by the petitioner no.2 the order is passed.

Marriage is definitely wishes of a boy and girl to continue with their conjugal relationship provided they have attained the age of marriage, as required by law. We have been fortified with several writ petitions in which more or less identical reliefs are claimed for protection of their marital relationship, which is allegedly being interfered with and harassed by their parents or relatives, who are private respondents. The writ jurisdiction is not made to resolve such type of dispute between the two private parties. We otherwise strongly believe family law is no law. It is a social problem, which can only be uprooted socially and not by the intervention of the writ Court in the garb of violation of Article 21 of the

Constitution of India unless it is established beyond doubt.

If there is any real grievance of married couple against their parents or relatives who are allegedly interfering with their conjugal rights which goes to such extent that there is threat of life, they are at liberty to lodge any criminal complaint or file F.I.R. whichever is required under the law to the police and in case of refusal, may make appropriate application before the appropriate court of criminal law by way of applications under Sections 155 or 156 of the Criminal Procedure Code. Similarly, in case the parents or relatives, find that illegally their son or daughter was eloped for the purpose of marriage although he or she is underage or not inclined or they are behaving violently, they are equally at liberty to take steps in a similar manner.

But, when neither of the actions are taken amongst each other, a fictitious application with certain vague allegations, particularly by the newly married couple, under writ jurisdiction of the High Court, appears to be circuitous way to get the seal and signature of the High Court upon their respective marriages without any identification of their age and other necessary aspects required to be done by the appropriate authority/authorities. It is well settled by now that every marriage is required to be registered by the appropriate registering authority upon due verification of the ages etc. of respective parties. We cannot also allow to develop the disputed questions of fact under the writ jurisdiction nor we can draw any inference by the colourful presence of the newly wedded couple in the Court as per the respective advices. If we do so, it will be wrong presumption by using excessive power of the Court in this jurisdiction.

However, where no F.I.R. has been lodged or necessary police actions are taken by either of the parties, it is expected that no coercive action could be taken against each other.

In case the party/parties approaches/ approach the appropriate court of law or the authority concerned, raising his/her/their grievances, the same will be considered strictly in accordance with law.

There is no specification of age of the bride and bridegroom in the certificate issued by the Registrar concerned of Hindu Marriage, U.P. India, which is essential part. Therefore, in case any description of age is not available, in such certificate it will not be considered full proof certificate. This part of the order is required to be placed in the administrative side for the purpose of taking steps by issuance of circular if any, upon the Registrar concerned of the Hindu Marriage, U.P.India.

However, since the petitioner appears to be Passport holder and intends to go out of country. It is directed that at the time of leaving the country, he will seek permission from the District Magistrate, Allahabad.

Accordingly, the writ petition is treated to be disposed of, however, without any order as to costs.