

(2022) 07 GUJ CK 0049

In the Gujarat High Court

Case No : R/Special Criminal Application No. 7097 Of 2022

Preeti Omprakash Singh

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 15-07-2022

Acts Referred:

Constitution Of India, 1950 — Article 21, 226

Citation : (2022) 07 GUJ CK 0049

Hon'ble Judges : Niral R. Mehta, J

Bench : Single Bench

Advocate : Manan A Shah, 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) 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 the petitioners as per the representation made by petitioners addressed to respondent No.2 police authorities.

3) It is the case of the petitioners herein that petitioners have made one representation dated 23.05.2022 to the respondent No.2, but no response is received from the respondent No.2. It is submitted that as per the provisions of Special Marriages Act, the petitioners are required to present themselves before the Registrar of Marriages after 40 days of their application to register their marriage. The petitioners were required to remain present on 01.07.2022. However, the petitioners are under fear and threat of life and liberty at the behest of parents of the petitioner No.1, the petitioners require police protection. It is submitted that petitioners are desirous to marry with each other. 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.

4) Mr. Manan Shah, 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 want to reside together but the 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.

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

6) 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).

7) There is no dispute regarding the fact that both the petitioners are 24 and 25 years of age respectively and have attained the age of majority. There is enough material on record to indicate that the petitioners want to marry with each other. As such, having attained the age of majority, the petitioners are within their rights in taking their own decision regarding their lives.

8) 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)

9) 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.

10) 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:

The petitioners are to remain present before the Registrar of Marriage in between 18th July, 2022 to 20th July, 2022 accordingly the steps may be taken to secure the safety and life of the petitioners. . Respondent No.2 – District Superintendent of Police, Surat shall look into the application, addressed by petitioners and shall also provide police protection to the petitioners between 18th July, 2000 to 20th July, 2022 when the petitioners approach the concerned Registrar of Marriage.

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