
(2013) 06 AHC CK 0026
In the Allahabad High Court

Priya Sharma and Others

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 26-06-2013

Acts Referred:

Citation : (2013) 06 AHC CK 0026

Hon'ble Judges : Rakesh Tiwari, J and Karuna Nand Bajpayee, J

Final Decision : Disposed Of

Judgement

Rakesh Tiwari, Karuna Nand Bajpayee, J.—This writ petition has been filed by the petitioners for quashing of FIR of case crime No. 357 of 2013, under section 363,366 IPC, registered at P.S. Vrindavan, district Mathura.

2. Heard counsel for the petitioners and learned A.G.A and perused the record.

3. Petitioner no. 2 Kallu alias Satish (hereinafter referred to as the petitioner boy) and petitioner no. 1Priya Sharma (hereinafter referred to as petitioner girl), are present before this Court and they have been identified by their lawyer. The petitioners claim to have voluntarily married out of their own volition and sweet will and that they are living together without any coercion and compulsion and also deny that there has been any kidnapping or abduction.

4. In paragraph no. 5 of the writ petition it is averred that petitioner girl is major.

5. In the peculiar circumstances of the case, we direct petitioner no. 1Priya Sharma to appear before the Chief Judicial Magistrate/Magistrate concerned, district Mathura within two weeks from today, who shall direct the Investigating Officer to produce her before the C.M.O. concerned for the purpose of getting her medical examination done for ascertaining her age as per her appearance and also by a radiological examination. The age certificate will bear the self attested photograph of petitioner girl.

6. In case the CMO conclusively reports that she is 18 years in age or above or if, in the event of the Chief Medical Officer's report being inconclusive, the

concerned Magistrate on enquiry finds the girl to be major, he shall record her statement under section 164, Cr.P.C. For the purpose of ascertaining her age, the Magistrate may take whatever evidence he deems proper and necessary in this regard apart from giving opportunity to the father/guardian of the petitioner girl to furnish relevant material in this regard. The Investigating Officer shall provide all necessary assistance to the C.J.M./J.M. concerned for ensuring compliance of aforesaid directions including production of the petitioner girl before the Magistrate concerned whenever required.

7. If the petitioner girl is found to be major and her statements under section 161 and 164, Cr.P.C. are favourable to the accused petitioners, the I.O. may make adequate legal use of the same for the purposes of investigation and shall keep them in view while deciding the nature and appropriateness of the report to be submitted under section 173, Cr.P.C.

8. In case the petitioner girl is found to be minor, then the CJM/Magistrate concerned shall pass appropriate orders regarding her custody as he deems fit and proper.

9. However, considering future security of the petitioner girl who is alleged to have been abducted by the petitioner boy irrespective of the fact that she is major or minor, we further provide that petitioner boy shall deposit Rs. 20000/ in the form of Fixed Deposit for a period of five years in exclusive name of the petitioner girl in any nationalized bank or post office within a period of one month from today. The amount so deposited shall not be withdrawn before its maturity under any circumstance except with the leave of the CJM/Magistrate concerned.

10. The concerned bank/post office shall be instructed by the depositor (petitioner boy) to make a specific note in the record that the same shall not be encashed/withdrawn before its maturity except with the leave of the CJM/Magistrate concerned.

11. The petitioner boy is directed to furnish proof before the CJM/Magistrate concerned on or before 1.8.2013 that he has complied with the aforesaid directions.

12. Till the disposal of the aforesaid proceedings before the CJM concerned as provided herein above, the arrest of the petitioners in the aforesaid case shall remain stayed. In case the petitioner boy fails to fulfill any of the conditions mentioned hereinabove, the stay of arrest granted by this Court shall stand vacated.

13. With the aforesaid observations, the writ petition is disposed of.