

(2015) 04 AHC CK 0017
In the Allahabad High Court
Case No : Writ C. No. 14897 of 2015

Ruchi Kashyap

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 06-04-2015

Acts Referred:

Constitution of India, 1950 — Article 21

Citation : (2015) 5 ADJ 93 : (2015) 3 ALJ 578 : (2015) 111 ALR 4 : (2015) 3 AWC 2833

Hon'ble Judges : Tarun Agarwala, J; Amar Singh Chauhan, J

Bench : Division Bench

Advocate : Mahipal Singh, for the Appellant

Final Decision : Disposed off

Judgement

Tarun Agarwala, J.

1. We have heard Sri. Mahipal Singh, the learned counsel for the petitioner, the learned Standing Counsel for the State and Sri. M.C. Chaturvedi, the learned counsel for the respondent No. 4. In this petition, the petitioner has dragged her father, respondent No. 4 to this Court with the prayer that she should be given protection by the State against her father as she feels threatened that her life would be in danger by the action of her father. The allegation, in short is, that the petitioner has become major, has a pan card and is working in a private firm and that her father is forcing her to get married to a stranger against her wishes. In this regard, the petitioner's father is threatening her and sometimes beats her up. The petitioner contends that in this regard, she moved an application before the Senior Superintendent of Police (hereinafter referred to as the SSP), Meerut on 13.03.2015 bringing all these facts to his knowledge and, on her application, the SSP directed the Station House Officer (hereinafter referred to as the SHO), Brahampuri to conduct an enquiry and ensure that no untoward incident happens. The petitioner contends that without making due enquiry, the SHO lodged a missing report on 14.03.2015 at the instance of her father presumably

in retaliation to her application. This necessitated the petitioner to rush to this Court in filing this writ petition.

2. By our order dated 23.03.2015, we had directed the SSP to file a counter affidavit indicating as to why a missing report was lodged when the petitioner was present before him on 13.03.2015. The counter affidavit filed by the SSP indicates that the petitioner had approached her on 13.03.2015 and on her application, had directed the SHO to investigate and ensure that no untoward incident takes place. The counter affidavit further reveals that on the father's application, a missing report was lodged on 14.03.2015. Unfortunately, the counter affidavit does not reveal as to what investigation was done on the petitioner's application. It is apparently clear that the SHO did not make the relevant and desired investigation on the petitioner's application, but proceeded on the father's application. This is some what strange and undesirable. The police is required to take an independent and impartial stand.

3. Be that as it may. The present situation is, that the petitioner is present in person before this Court. Respondent No. 4, namely, the father is also present. Before lunch we had directed the learned counsel for both the parties to give an opportunity to the parties to speak to each other since the petitioner is the daughter of respondent No. 4. During lunch recess, the parties met and it transpires that the petitioner is adamant in living alone and does not want to reside with her father though she has indicated that her father could visit her whenever he desires.

4. Respondent No. 4, being the father, is anxious for the welfare and safety of her daughter and, in that scenario, if he has used harsh words or if he has given a threat in some manner, it was only for the protection of her welfare and it does not mean that there was a perceptible threat on the life of the petitioner. Nothing has come forward before this Court to indicate that a real threat perception exists. In fact, the prayer made by the petitioner before this Court is, that she should not be harassed in any manner and that the respondents should be restrained from interfering in her life. Prayer No. 3 is with regard to providing security by the State machinery on the apprehension of threat to her life from her father and her relatives.

5. The law is very clear. Article 21 of the Constitution of India provides that every citizen has a right to live with dignity and with respect. If a real threat perception exists, the Court will definitely interfere in the matter and provide a security cover. But merely, on an apprehension, a security cover cannot be provided.

6. In the facts and circumstances, which has been depicted in the writ petition and what we have stated aforesaid, we are of the opinion that on such bald assertion and on mere allegation of apprehension about her life, no security can be provided to the petitioner by the State.

7. The learned counsel for the respondent No. 4, i.e., the father has made a statement that if petitioner desires to live independently she could do so without

any fear from him and that he will not come in the way of her living a peaceful life. The learned counsel for respondent No. 4 submitted that the father is only apprehensive about her welfare and if the petitioner chooses to live her life in her own fashion, she could do so without any interference.

8. From the assertions made in the writ petition, we are of the opinion that it is not a case of threat perception of her life which warrants a security cover to be provided to her. Article 21 of the Constitution should not be invoked in this cavalier fashion. It is sacrosanct provision, which should be invoked with full responsibility. From the assertions made in the writ petition, it is clear that a case of a domestic violence, if any could be made out. In such a situation, the petitioner could approach the appropriate forum under the Protection of Women From Domestic Violence Act, 2005. The writ forum is not the appropriate forum for such purpose.

9. From the counter affidavit of the SSP it is clear that the petitioner is major and is working in a private firm. She has the freedom and liberty to live her life according to her own choice and will. No one can come in her way, not even her father, respondent No. 4. We, however, find that the father has lodged a missing report, which is being investigated by the police. The petitioner has categorically stated that she is living somewhere but has not disclosed her residential address. We, accordingly, dispose of the writ petition directing the petitioner to appear before the SHO, Brahampuri, District Meerut within ten days from today and disclose her residential address. Upon such information being provided to the police, the SHO will consign the missing report to the records. In the event, the petitioner feels that her father or any of her relatives is subjecting her to any act from which she feels threatened, it would be open to the petitioner to move an application before the appropriate forum for redressal of her grievance.