

(2021) 09 GUJ CK 0074

In the Gujarat High Court

Case No : R/Special Criminal Application No. 8523 Of 2021

Sagar Bharatbhai Patel

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 21-09-2021

Acts Referred:

Constitution Of India, 1950 — Article 226, 227

Citation : (2021) 09 GUJ CK 0074

Hon'ble Judges : Ilesh J. Vora, J

Bench : Single Bench

Judgement

Ilesh J. Vora, J

1. Heard Mr. A.J.Yagnik, learned advocate for the petitioners and Ms.Shruti Pathak, learned APP for the respondent-State.

2. Rule. Learned APP waives service of notice of rule for and on behalf of the respondent-State.

3. This petition under Articles 226 and 227 of the Constitution of India, has been preferred with the following prayers :-

"(b) Be pleased to direct the Respondent No.2 Superintendent of Police, Ahmedabad to immediately provide the Petitioners and the family of the Petitioners No.1 with armed police protection at the cost of the State;

(c) Be pleased to direct Respondent Nos.2 and 3 to take departmental and disciplinary action against the erring police officials in view of the judgment of Hon'ble Apex Court reported in Shakti Vahini Vs. Union of India reported in 2018 (7) SCC 192I;

(d) Be pleased to direct the police to produce the passport belonging to the Petitioner No.2 being in the custody of the family of the Petitioner No.2 and had it over to the Petitioner No.2."

4. It is the case of the Petitioners that due to their long relationship, they got married on 26.04.2016 and it has been disclosed for the first time to the family of the wife in the year 2019 as there was strong objection against the marriage by family members of Petitioner No.2. On 01.07.2019, father of Petitioner No.2 Ashokbhai Vaghela called the Petitioner No.1 on his mobile and threatened him that they will kill him and his father, who is working at Lokhand bazaar at Sanand. In this factual background, the Petitioners have made representation to Sanand Police Station to extend the police protection with armed police at the cost of the State.

5. This Court has heard the learned counsel for the respective parties and has taken into consideration the principles of law enunciated by the Apex Court in the case of *Lata Singh v. State of Uttar Pradesh & Anr.* reported in (2006) 5 SCC 475, wherein, the Apex Court has held as under:-

"7. 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 interreligious 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 interreligious 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.

8. We sometimes hear of 'honour' killings of such persons who undergo inter-caste or interreligious 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."

6. On the facts and circumstances of the present case, marriage in question is an inter-caste marriage against the will and wish of family members, therefore, the

apprehension expressed by the Petitioners to their lives seems to be genuine and true. In order to avoid any harassment, the Petitioners are certainly entitled for police protection. Thus, Dy.S.P./Police Inspector, Bopal Police Station shall look into the representation made by the Petitioners dated 03.08.2021 and provide effective police protection at their residence i.e. B-303, Swapnil Elanza, Nr. Star Bazaar, Bopal forthwith and take necessary action to the extent that there is no danger to the lives of the petitioners, at the cost of the State. The Investigating Officer Shri Chavda, In-Charge Police Inspector of Sanand Police Station, Sanand is also directed to provide effective police protection to the father of Petitioner No.1 - Bharatbhai Sankalchand Patel, who is doing his business at Sanand.

7. List the matter on 11.10.2021. Meanwhile, progress report be submitted by learned APP on the next date of hearing. Direct service is permitted today.