

(2011) 03 AHC CK 0186
In the Allahabad High Court

Shama and Others

APPELLANT

Vs

State of U.P.Through Secretary and Others

RESPONDENT

Date of Decision : 31-03-2011

Acts Referred:

Citation : (2011) 03 AHC CK 0186

Hon'ble Judges : Amar Saran, J and Arvind Kumar Tripathi, J

Final Decision : Disposed Of

Judgement

Arvind Kumar Tripathi,J.

Heard learned counsel for the petitioners and the learned A.G.A.

Learned A.G.A has accepted notice on behalf of respondent nos. 1 and 2.

Issue notice to respondent no.3 fixing 12.5.2011.

Petitioners to take steps to serve the notice on respondent no. 3 by registered post as well as speed post within three days from today. Office shall send the notice to said respondent within 24 hours thereafter.

Petitioners Smt. Shama and Nadeem are present in this Court and they have been identified by their lawyer. Smt. Shama states that she has voluntarily married Nadeem, the petitioner no.2 out of her own sweet will and is living with him without any coercion and compulsion.

In paragraph 16 of the writ petition, it is mentioned that petitioner No. 1 is major and aged about 20 years, but no reliable proof regarding her age has been annexed with the petition.

Since, there is no proof of age of Smt. Shama as no school certificate is available, we direct her to appear before the Chief Judicial Magistrate/Magistrate, Meerut within two weeks from today, who shall get her medical examination done within a week thereafter by the CMO concerned to ascertain her age. The age certificate will contain self attested photograph of Smt. Shama. In case, the

CMO reports that she is 18 or above 18 years in age, the I.O concerned shall record her statement under Section 161 Cr.P.C and also move an application before the CJM/Magistrate concerned for getting her statement recorded under Section 164 Cr.P.C, who shall record the same.

The aforesaid statements along with medical report shall be forwarded to this Court within a week thereafter.

The Court is of the view that for the security of the girl (petitioner no.1), the petitioner no.2 Nadeem should deposit a reasonable amount in the nationalized bank/ post office in the form of fixed deposit for a period not less than three years.

Sri S.S. Shah, learned counsel for the petitioners has agreed that the petitioner no.2 shall deposit such amount as may be directed by this Court in Fixed Deposit account exclusively in the name of petitioner no.1 Smt. Shama.

It is thus directed that the petitioner no.2 shall put an amount of Rs. 20,000/ (twenty thousand) in fixed deposit scheme of a nationalized bank/post office in the name of petitioner no.1 (Smt. Shama on or before the next date and shall file the photostat copy of the fixed deposit receipt along with supplementary affidavit . The amount so deposited shall not be withdrawn before its maturity under any circumstances except with the leave of this Court. The concerned bank/post office shall be instructed by the depositor (petitioner no.2) to make a specific note in the record as well as the fixed deposit receipt that the same shall not be encashed before maturity except with the leave of the Court.

List this case on 12.5.2011 before the Appropriate Bench.

Till then, the arrest of the petitioners in case crime No. 35 of 2011, under Section 363, 366, 504 IPC, P.S. Mundali, district Meerut, shall remain stayed.