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**(2013) 10 MP CK 0180**  
**In the Madhya Pradesh High Court**  
**Case No : Writ Petition No. 8952 of 2013**

Smt. Yasmeen

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

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**Date of Decision :** 09-10-2013

**Acts Referred:**

**Citation :** (2013) 10 MP CK 0180

**Hon'ble Judges :** K.K. Trivedi, J

**Bench :** Single Bench

**Advocate :** Salil Singh, for the Appellant; Rahul Jain, learned Dy. Advocate General, for Respondents-State, on Advance Copy, for the Respondent

**Final Decision :** Disposed Off

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## Judgement

K.K. Trivedi, J.—Heard on the question of admission. The petitioner, by way of filing this petition has sought direction against malafide and arbitrary action on the part of respondents No. 6 and 7 as well as official respondents to allow her to lead her life peacefully and to direct the respondents No. 6 and 7 not to force or compel her to marry to an unknown and unacquainted person, and to provide adequate security and protection from the official respondents.

2. It is contended by learned counsel for the petitioner that the brother of petitioner-respondent No. 7 has lodged a false report against the husband of petitioner at Police Station Mangawa, which was registered as Crime No. 121/2012 for offences under Sections 363 and 366 of the I.P.C., pursuant to which the husband of the petitioner was taken into custody. It is further contended that the petitioner is a major and matured girl. She has performed marriage with one Saddam Hussain, and both have executed Nikah agreement and decided to live as husband and wife. Therefore, she has right to lead her own life as per her wishes and freewill, but the respondents No. 6 and 7, being highly influential persons of the locality and having strong connections with the police authorities, are compelling her to marry an unknown and unacquainted person.

3. The issue is to be looked into by the respondents-authorities and in case a complaint is made with respect to registration of offence and no action is taken by the authorities, it is open to the complainant, petitioner in the present case, to lodge a complainant u/s 200 of the Code of Criminal Procedure before a Magistrate. In the case of Aleque Padamsee and Others Vs. Union of India (UOI) and Others, , the Apex Court has categorically held that the Magistrate, if approached by a complainant u/s 200 of the Code of Criminal Procedure with respect to any cognizable case, he is required to record the statement and exercise the powers available under Chapter-XV of the Code of Criminal Procedure. The Magistrate if, after recording evidence, finds a prima facie case, instead of issuing process to the accused, he is empowered to direct the police concerned to investigate the offence under Chapter-XII of the Code and to submit a report to the Magistrate. In case it is found by the Magistrate that the complaint does not disclose any offence to take further action, he is empowered to dismiss the complaint u/s 203 of the Code of Criminal Procedure. In such a case, if the grievance is raised, a proper procedure is prescribed to investigate such grievance. Similar view is taken by the Apex Court in the case of Sakiri Vasu Vs. State of U.P. and Others, .

4. The Apex Court in the case of Divine Retreat Centre Vs. State of Kerala and Others, of the report has held thus:

50. Can the High Court set the law in motion against the named and unnamed individuals based on the information received by it without recording the reasons that the information received by it prima facie disclosed the commission of a cognizable offence? Setting criminal law in motion is fraught with serious consequences, which cannot lightly be undertaken by the High Court even in exercise of its jurisdiction under Article 226 of the Constitution of India. In our view, the High Court in exercise of its whatsoever jurisdiction cannot direct investigation by constituting a special investigation team on the strength of anonymous petitions. The High Courts cannot be converted into station houses.

5. In view of the law laid-down by the Apex Court, it is not necessary for this Court to exercise extraordinary power under Article 226 of the Constitution of India. However, it will be open to the petitioner to approach the appropriate Magistrate, if she still feels aggrieved by any action of the respondents-authorities, under the procedure laid-down in the Code of Criminal Procedure.

6. The writ petition is accordingly dismissed.

7. Marriage is definitely wish of a man and a woman to continue with their conjugal relationship provided they have attained the said status as per the law. The writ jurisdiction is not made to resolve such type of dispute between the two parties. The writ Court in the garb of violation of Article 21 of the Constitution of India is not suppose to protect any such relationship unless the same is established by law. If any grievance is there with respect to acceptance of the marriage of the petitioner, they will have to approach the appropriate forum in

accordance to law. If there is any criminal complaint lodged under the law by any person against the petitioner or her husband, she has the course open to approach the appropriate forum under the Code of criminal Procedure for grant of protection of grant of bail. For such a claim, it would not be justified to stretch the limit of Article 226 of the Constitution of India in the garb of invoking the provisions of Article 21 of the Constitution of India to that extent. However, if there is a real threat given to the life of the petitioner or other family members of her husband, she is free to approach the appropriate Court and the authorities seeking protection. If such an application is made, proper protection be granted to the petitioner and other family members of husband of petitioner. In any case, if any criminal case is registered against the husband of petitioner, the same has to be decided in accordance to the investigation done. In case the complaint is made by the petitioners before the police authorities and the same is not looked into, the petitioners are free to approach the Courts of law by filing a complaint u/s 200 of the Code of Criminal Procedure before the Judicial Magistrate First Class. However, as has been observed by the Apex Court in the case of Divine Retreat Centre Vs. State of Kerala and Others, , this Court is not required to become a Station House and to investigate or direct reinvestigation of any such complaint. Such a power is not to be exercised without there being any prima facie evidence available on record. In view of the aforesaid, without entertaining the writ petition on merits, the same is disposed of with the aforesaid liberties and directions.