

Court No. - 9

Case :- MISC. BENCH No. - 25957 of 2021

Petitioner :- Mamta Devi & Anr.

Respondent :- State Of U.P.Thru.Prin.Secy.Home,Lucknow & Ors.

Counsel for Petitioner :- Yogendra Nath Yadav,Nisha Tiwari,Saurabh Yadav

Counsel for Respondent :- G.A.

Hon'ble Devendra Kumar Upadhyaya,J.

Hon'ble Mrs. Saroj Yadav,J.

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

Pursuant to our order dated 09.11.2021, petitioner No.1 Mamta Devi and petitioner No.2 Janki Prasad are present before this Court.

Petitioner No.1, Mamta Devi is major and has a Post Graduate degree to her credit. She has stated before us that she had earlier even taught in an Intermediate institution and that she wants to pursue her studies further. However, her family members, especially the parents, have been creating some hurdles in her pursuing further studies. She has also stated before the Court that her family members even earlier attempted to harm her physically and thus she does not want to live with them. It has also been stated by the Petitioner no. 1 before the Court that though she is married, however, at the moment for certain reasons, she is not living with her husband and finding some

protection with petitioner no. 2 Janki Prasad, she is presently residing with him. She has categorically stated that she has been facing threats from her family members and accordingly this writ petition has been instituted by her along with the petitioner no. 2 seeking a direction to the police authorities to protect the petitioners and further to ensure that they are not harassed at the instance of the family members of the petitioner no. 1. It has been stated by the petitioner no. 1 as also by the petitioner no. 2 before the Court that younger brother of the petitioner no. 2 was summoned by the police authorities of Police Station Chhapia, District Gonda and he was harassed there at the instance of the family members of the petitioner no. 1.

Learned State Counsel has received certain instructions from Sub Inspector Kameshwar Rai, Police Station Chhapia, District Gonda, which are contained in the letter dated 08.11.2021, the said instructions are taken on record.

On the basis of the said instructions, learned State Counsel has submitted that the father of the petitioner no. 1 had made a complaint to the police authorities of Police Station Chhapia that petitioner no. 1 had gone with petitioner no. 2 and in connection with probing the allegations made in the said complaint, the brother of the petitioner no. 1 was summoned, however, after preliminary interrogation/enquiry, he was let off. Petitioner no. 1 however denies that brother of the petitioner no.

2 was summoned by the police authorities only for enquiry purpose. She has stated that police authorities are acting at the instance of her family members and in fact the younger brother of the petitioner no. 2 was unnecessarily harassed. She has also submitted before the Court that some Chowki Incharge of Police Post Babhnan, District Gonda had called her on her mobile number and talked to her improperly.

In the instructions contained in the letter dated 08.11.2021, it has been stated that petitioners are not wanted in any case neither are they being illegally harassed and further that in case any application is moved by them to the police station, the legal action which may be permissible under law shall be taken.

Having heard the learned counsel for the petitioners, the petitioner nos. 1 and 2 and also learned A.G.A., what we find is that petitioner no. 1 is major and a well educated lady. Though she is married, however, for certain personal reasons, presently she is not residing with her husband or her in-laws. However, such decision of petitioner no. 1 is impermissible to be interfered with by any one including her family members. Any such attempt from any corner either from her family members or even from police authorities will be direct infringement and interference in her fundamental rights vested in her by the Constitution namely right to life and liberty both. Indisputably she is major and highly educated and as such, she has legally

protected right to exercise her own choice of deciding where to live, where to go and where to reside.

In the aforesaid circumstances, we ***disposed of*** this writ petition finally with a direction to the Superintendent of Police, Gonda to ensure that life and liberty of the petitioners are secured and further that no interference in the choice expressed and exercised by the petitioner no. 2 is caused from any corner either from her family members or from the police authorities.

It is needless to say that it shall be the duty of the police authorities especially the Superintendent of Police, Gonda to protect the life and liberty of the petitioners and see to it that no harm physically or otherwise is caused by them or by any one including the family members of the petitioner no. 1.

We hope and trust that police authorities of District Gonda shall act accordingly.

We, at this juncture, also feel it appropriate to observe that any observation made or direction given in this order will have no impact or bearing whatsoever on the issues which appears to be in existence between the petitioner no. 1 and her husband.

Learned A.G.A. shall communicate this order to the Superintendent of Police, Gonda as also to the S.H.O. concerned, forthwith.

Office is directed to provide the certified copy of this order free

of charge to the learned A.G.A. at the earliest.

(Saroj Yadav, J.) (Devendra Kumar Upadhyaya, J.)

Order Date :- 11.11.2021

A.K. Singh