

Court No. - 2

Case :- WRIT - C No. - 31166 of 2018

Petitioner :- Smt. Shahin Bano And Another

Respondent :- State Of U.P. And 04 Others

Counsel for Petitioner :- Shahroze Khan

Counsel for Respondent :- C.S.C.

Hon'ble Dr. Kaushal Jayendra Thaker,J.

Petitioners have preferred this writ petition for a direction upon the respondents not to interfere in their married life and also for protection of their lives and liberty.

The petitioners claim that they are adults and living together out of their own freewill. It is stated that for the said reason, the private respondent and his other family members have got annoyed and there is serious danger to the lives of the petitioners as they are being threatened and harassed.

In support of their age, petitioners brought on record their AADHAR Cards which show that they are major. They have also brought on record the complete online application for registration of their marriage by way of supplementary affidavit which is taken on record.

The petitioners have averred in the writ petition that they are living as wife and husband. It is stated that they have apprehension that private respondent can eliminate them for the honour of his family. In case this Court does not grant them protection, their lives may be endangered.

Heard learned counsel for the petitioners and learned Standing Counsel for the State functionaries. In view of the order proposed to be passed, there is no need to issue notice to private respondent. With the consent of learned counsel appearing for the parties, this writ petition is being disposed of finally at this stage in terms of the Rules of the Court.

The Supreme Court in a long line of decisions has settled the law that where a boy and a girl are major and they are living with their free will, then, nobody including their parents, has authority to interfere with their living together. Reference may

be made to the judgements of the Supreme Court in the cases of **Gian Devi v. The Superintendent, Nari Niketan, Delhi and others, (1976) 3 SCC 234; Lata Singh v. State of U.P. and another, (2006) 5 SCC 475; and Bhagwan Dass v. State (NCT of Delhi), (2011) 6 SCC 396**, which have consistently been followed by the Supreme Court and this Court, as well as of this Court in **Deepika and another v. State of U.P. and others, 2013 (9) ADJ 534**. The Supreme Court in Gian Devi (supra) has held as under:

"7. ... Whatever may be the date of birth of the petitioner, the fact remains that she is at present more than 18 years of age. As the petitioner is sui juris no fetters can be placed upon her choice of the person with whom she is to stay, nor can any restriction be imposed regarding the place where she should stay. The court or the relatives of the petitioner can also not substitute their opinion or preference for that of the petitioner in such a matter."

Having regard to the facts and circumstances of the case, I am of the view that the petitioners are at liberty to live together and no person shall be permitted to interfere in their peaceful living. In case any disturbance is caused in the peaceful living of the petitioners, the petitioners shall approach the concerned police authority with a certified copy of this order, who shall provide immediate protection to the petitioners.

A liberty is granted to private respondent that if the documents brought on the record are fabricated or forged, it will be open to him to file a recall application for recall of this order.

It is made clear that this Court has not adjudicated upon the alleged marriage of the petitioners and this order in no way expresses opinion about the validity of their marriage and genuineness of their marriage certificate, if any.

The writ petition is partly allowed. No order as to costs.

Order Date :- 20.9.2018/DKS