

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 12th OF APRIL, 2024

WRIT PETITION No. 7831 of 2024

BETWEEN:-

[REDACTED] [REDACTED]
[REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
ABOUT 47 YEARS,
OCCUPATION:
KRISHAK R/O GRAM
LAALPURA POST
OFFICE GURJIKALA,
TEHSIL RITHI,
DISTRICT KATNI
(MADHYA PRADESH)

2. [REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]
[REDACTED] [REDACTED]
ABOUT 68 YEARS,
OCCUPATION:
PENSIONER NIVASI
GRAM V POST OFFICE
GURJIKALI TEHSIL
RITHI JILA KATNI
(MADHYA PRADESH)

3. [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]
AGED ABOUT 35 YEARS,
OCCUPATION:
ADHIVAKKTA NIVASI
GRAM V POST OFFICE
GURJIKALI TEHSIL
RITHI JILA KATNI
(MADHYA PRADESH)

4. [REDACTED]

██████████
██████████
██████████
██████████ AGED
ABOUT 56 YEARS,
NIVASI GRAM V POST
OFFICE GURJIKALI
TEHSIL RITHI JILA
KATNI (MADHYA
PRADESH)

.....PETITIONER

*(BY SHRI VIVEK AGRAWAL – ADVOCATE WITH SHRI ANKIT SINGH CHAUHAN -
ADVOCATE)*

AND

1. THE STATE OF
MADHYA PRADESH
THROUGH COLLECTOR
KATNI DISTRICT KATNI
(MADHYA PRADESH)
2. SHRIMAN POLICE
MAHANIRIKSHAK
KARYALAY POLICE
MUKHYALAY BHOPAL
(MADHYA PRADESH)
3. SHRIMAN ABHIJEET
KUMAR RANJAN PAD
POLICE ADHIKSHAK
KARYALAY POLICE
ADHIKSHAK
KARYALAY JILA KATNI
(MADHYA PRADESH)
4. SHRI MANOJ KODIYA
PAD ATIRIKT POLICE
ADHIKSHAK
KARYALAY KARYALAY
POLICE ADHIKSHAK
KARYALAY JILA KATNI
(MADHYA PRADESH)
5. MADHU PATEL PAD
NIRIKSHAK KARYALAY
POLICE ADHIKSHAK
KARYALAY JILA KATNI
(MADHYA PRADESH)

.....RESPONDENTS

(RESPONDENTS NO. 1 AND 2 BY SHRI MOHAN SAUSARKAR – GOVERNMENT ADVOCATE)

This petition coming on for admission this day, the court passed the following:

ORDER

This petition under Article 226 of Constitution of India has been filed seeking following relief(s):-

“(i) यह कि, माननीय न्यायालय से निवेदन है कि, उत्तरार्थीगणों के विरुद्ध इस प्रकृति का रिट/आदेश/निर्देश जारी की जावे कि, उत्तरार्थीगणों के विरुद्ध वैधानिक न्यायहित में दण्डात्मक कार्यवाही किया जावे।

(ii) यह कि, माननीय न्यायालय से निवेदन है कि, जिम्मेदार उत्तरार्थीगण क्र.6 के विरुद्ध इस प्रकृति का रिट/आदेश/निर्देश जारी की जावे कि, जिम्मेदार उत्तरार्थीगण क्र. 6 द्वारा अपने पद की पदीय हैसियत में दुरुपयोग कर अपराधिक कृत्य किया गया, जिसकी जाँच कर तत्काल उक्त उत्तरार्थीगण क्र. 6 को पद से बर्खास्त किया जावे।

(iii) यह कि, माननीय न्यायालय इस प्रकरण में परिस्थितियों के अंतर्गत जो भी अन्य सहायता याचिकाकर्ता के पक्ष में रिट/आदेश/निर्देश याचिकाकर्ता के पक्ष में अन्य उचित अनुतोष जो माननीय न्यायालय उचित समझे न्यायहित में पारित की जावे।”

2. After arguing the matter at length and making wild allegations against the Police Department as well as making an attempt to assassinate the character of the mother-in-law of the petitioner No.3, the counsel for petitioner as well as the petitioner No.3 sought permission of this Court to withdraw this petition.

3. Since, wild allegations have been made and an attempt has been made to assassinate the character of a lady after extensive arguments, accordingly, the prayer for withdrawal of the petition was refused.

4. It is submitted by counsel for petitioners that the marriage of respondent No.11 was performed with petitioner No.3 on 11.06.2023. At the time of marriage, information was given to the petitioner No.3 that the respondent No.11 has passed Class-12th Examination but later on it was found that she has passed only Class-10th. Accordingly, the petitioner No.3 made a complaint on different forums alleging that marriage was performed by keeping him in dark and playing fraud on him and accordingly prayed for registration of offence under Section 420 of IPC. On 14.01.2024, SHO of Mahila Thana, Katni gave a finding that the applicant No.3 has given a statement that he is a practicing Advocate and his marriage was performed with respondent No.11 on 11.06.2023 as per Hindu rights and rituals. After the marriage, she is pressurizing him to reside separately. She is also insisting that he should reside separately from his parents or should reside in Jabalpur or Katni. Prior to the marriage, his wife had informed him that she has passed Class-12th in first division whereas after the marriage, he came to know that she has studied upto Class-10th and accordingly it is the case of the applicant No.3 that the marriage was performed by giving false information about the educational qualification.

5. It is further mentioned in the said report that the statements of the in-laws of the applicant No.3 were also recorded including the respondent No.11 who has stated that her in-laws are harassing her on trivial issues and on that ground she is residing in her parental house. Although, the respondent No.11 wants to reside with her husband (applicant No.3) but the applicant No.3 does not wish to keep the respondent No.11 with him.

6. After considering the aforesaid aspects, the SHO came to a conclusion that the applicant No.3 and the respondent No.11 are husband and wife but the applicant No.3 does not wish to keep his wife with him whereas the respondent No.11 wants to reside with her husband. The applicant No.3 has made a complaint against his wife and in-laws and on due verification no offence is made out.

7. Accordingly, the counsel for petitioners was directed to address this Court as to whether the allegation made by the applicant against the respondent No.11 would make out an offence under Section 420 of IPC or not.

8. During the course of arguments, it was also submitted by counsel for applicants that the mother-in-law of the applicant No.3 is involved in prostitution accordingly the counsel for petitioners was directed to point out the basis for making such wild allegation against a lady, which amounts to her character assassination. By referring to page No.91, it is submitted by counsel for the petitioners that the applicant No.1 had made a complaint to SHO, Police Station, Mahila Thana, District Katni alleging specifically in Paragraph-12 that during the course of interaction, the respondent No.11 had admitted that her mother i.e. mother-in-law of the applicant No.3 has illicit relationship with other persons.

9. Since, the petitioners have not impleaded the mother-in-law of respondent No.3 and during the course of arguments, her character was assassinated, therefore the counsel for petitioners was directed to point out from the writ petition as to whether such an allegation has been made in the writ petition or not.

10. Shri Ankit Singh Chauhan/petitioner No.3 who was also sitting in the Court submitted that no such allegation has been made in the writ petition and accordingly he was requested to point out as to whether allegations made by his counsel during the course of arguments against the mother-in-law of the petitioner No.3 was on his instructions or not.

11. It is submitted by Shri Ankit Singh Chauhan that it was not on his instructions, but admitted that in one of his complaint, the allegations were made by him against his mother-in-law by citing his wife as the source of information.

12. It is submitted by counsel for petitioner that the petitioner No.3 is not a regular practitioner. It was also submitted by petitioner No.3 that he has only 2 or 3 cases and has no source of livelihood.

13. Be that whatever it may be.

14. Assassination of the character of a woman by alleging that she is involved in prostitution is a serious matter and the Court proceedings are public proceedings and, therefore, any party cannot be allowed to assassinate the character of a person without any basis and without impleading her as respondent in the writ petition, therefore the mother-in-law of the petitioner No.3 is granted liberty that if she so desires, then she can prosecute the petitioners for making wild allegations of character assassination.

15. The petitioners are aggrieved by the findings given by the SHO, Police Station, Mahila Thana, District Katni by which it has been held that the allegation made by the petitioner No.3 that his marriage was performed by giving a false information with regard to educational qualification of respondent No.11 was not found to be an offence under provisions of law.

16. Accordingly, this Court before proceeding further decided to consider as to whether performance of a marriage by giving false information about the educational qualification would amount to an offence under Section 420 of IPC or not. Since, the matter relates to marriage, therefore the counsel for petitioners was directed to point out from Section 5 of Hindu Marriage Act whether such an allegation would be covered by Section 5 of Hindu Marriage Act or not ?

17. After going through Section 5 of Hindu Marriage Act, it was fairly conceded by Shri Agrawal that such eventuality would not be covered by Section 5 of Hindu Marriage Act.

18. Accordingly, it is also admitted that if any marriage is performed by giving a wrong information about educational qualification, then neither it would be void marriage not it would be voidable marriage.

19. Accordingly, the counsel for petitioner as well as petitioner No.3 were requested to point out from the provisions of Section 13 of Hindu Marriage Act as to whether such an allegation is sufficient to grant divorce or not. After going through the provisions of Section 13 of Hindu Marriage Act, it was fairly conceded by counsel for the petitioner as well as petitioner No.3 that the allegation of getting married by giving a false information about the educational qualification does not amount to any ground for grant of divorce.

20. Accordingly, the counsel for petitioner as well as petitioner No.3 were directed to point out from the Section 415 of IPC whether such an act would be an offence of cheating or not.

21. The counsel for petitioner as well as petitioner No.3 could not justify as to how the performance of marriage by giving a false

information about educational qualification would amount to deceiving a person to deliver the property. The petitioner No.3 is admittedly cannot be said to be property. The word “deceive” clearly indicates otherwise a person was not bound to deliver the property.

22. The counsel for petitioner as well as petitioner No.3 have already gone through the provisions of Section 5, 11, 12 and 13 of the Hindu Marriage Act and they have conceded that such an allegation would not fall under any the provisions of law.

23. Accordingly, this Court is also after considered opinion that the SHO, Police Station, Mahila Thana, Katni did not commit any mistake by holding that the allegation made by the petitioner No.3 against the respondent No.11 would not make out any offence. However that is not end of the matter.

24. The petitioner in paragraph-8, 12 and 13 had leveled wild allegation of corruption against Police officials of Police Department.

25. Paragraphs No. 8, 12 and 13 of the petition read as under:-

“8. यह कि, मुझ याचिकाकर्ता 1 व 3 द्वारा उत्तराधीगण क्र. 11 की शिकायत 11/12/2023 के संबंध में दिनांक 12/01/2024 को उत्तराधीगण क्र.3 के समक्ष प्रस्तुत किया गया तथा उत्तराधीगण क्र. 5 के समक्ष दिनांक 12/01/2024 को भारतीय डाक से प्रेषित किया गया तथा उक्त संबंध में मुख्यमंत्री कार्यालय म.प्र. द्वारा ई-मेल माध्यम से जारी पत्र का भी पालन जिम्मेदार पुलिस अधिकारीगणों द्वारा नहीं किया गया, जिससे सिद्ध होता है कि भ्रष्टाचार अपने चर्मसीमा पर है। (समर्थन में याचिकाकर्ता के द्वारा एनेकजर पी/7, पी/8, पी/9 संलग्न है।)

12. यह कि, उत्तराधीगण क्र.6 व 11 के विरुद्ध मुझ याचिकाकर्तागण क्र.३ द्वारा सीएम हेल्प. शिका. 25696690, दि. 17/01/2024 सीएम हेल्पलाइन पोर्टल में दर्ज किया गया था परन्तु उक्त शिकायत में उक्त पोर्टल द्वारा निर्धारित समय सीमा का उल्लंघन कर कोई भी कार्यवाही नहीं की गई जिससे यह प्रथम दृष्टया ही सिद्ध होता है कि संबंधित वरिष्ठ पुलिस अधिकारीगण भ्रष्ट पुलिस अधिकारीगणों पर वैधानिक

दण्डात्मक कार्यवाही करने में लाचार व वेवश है। (समर्थन में याचिकाकर्ता के द्वारा एनेक्जर पी/12, पी/13 संलग्न है।)

13. यह कि, उत्तरार्थीगण क्र.6 व 11 के विरुद्ध मुझ याचिकाकर्तागण क्र.3 द्वारा सीएम हेल्प. शिका. 25696237, दि. 17/01/2024 सीएम हेल्पलाइन पोर्टल में दर्ज किया गया था परन्तु उक्त शिकायत में उक्त पोर्टल में निर्धारित समय सीमा का उल्लंघन कर कोई भी कार्यवाही नहीं की गई जिससे यह प्रथम दृष्टया ही सिद्ध होता है कि संबंधित वरिष्ठ पुलिस अधिकारीगण भ्रष्ट पुलिस अधिकारीगणों पर वैधानिक दण्डात्मक कार्यवाही करने में लाचार व वेवश है। (समर्थन में याचिकाकर्ता के द्वारा एनेक्जर पी/12, पी/13 संलग्न है।)”

26. Once, the petitioner has failed to prove that how the allegation of marriage by giving false information that the respondent No.11 has passed Class-12th but she has only passed Class-10th would amount to deceiving or cheating, then this Court is of considered opinion that making a general allegations of corruption against a department or against its officers also amounts to defamation.

27. Be that whatever it may be.

28. Accordingly, the Police Department as well as the respondents No.2 to 10 who have been impleaded in the writ petition are given liberty that if so advised, they may prosecute the petitioners for making defamatory statements against them without any basis thereof.

29. Considering the totality of the facts and circumstances, this Court is of considered opinion that not only wild allegations were made by the petitioners against the Police Department and its officials but the have also tried to assassinate the character of the mother-in-law of the petitioner No.3.

30. Accordingly, with the liberty which has already been extended by this Court in previous paragraphs, this petition is **dismissed with cost of**

Rs.25,000/- to be deposited by the petitioners in the Registry of this Court within a period of one month from today; failing which the Registrar General shall not initiate proceedings for recovery of the cost but shall also register a case for contempt of Court.

**(G.S. AHLUWALIA)
JUDGE**