

Court No. - 81

Case :- WRIT - C No. - 1579 of 2024

Petitioner :- Pinki And Another

Respondent :- State Of Up And 4 Others

Counsel for Petitioner :- Lavkush Kumar Bhatt

Counsel for Respondent :- C.S.C.

Hon'ble Mrs. Renu Agarwal,J.

1. Instant writ petition under Article 226 of the Constitution has been filed by the petitioners with prayer for issuing writ, order or direction in the nature of mandamus commanding the respondents for not disturbed the marriage life of petitioners.

2. Heard learned counsel for the petitioners, learned Standing Counsel for State and perused the record.

3. Learned counsel for the petitioners submitted that both the petitioners have attend the age of majority. As per pan card the date of birth of petitioner no.1-Pinki is 01.05.1997 and she is aged about more than 26 years. As per the high school certificate-cum-marks sheet the date of birth of petitioner no.2 Avnesh Kumar is 01.01.1999 and he is aged about more than 25 years. It is submitted that petitioner no.1 belongs to Muslim community and petitioner no.2 belongs to Hindu community. It is further submitted that petitioner no.1 earlier married with respondent no.5 Raju son of Rafiq, who is habitual drinker and regularly assaulted the petitioner no.1. Thereafter, petitioner no.1 informed her parents about the incident, however, they did not take any action against respondent no.5. Therefore, she left the house of respondent no.5 and started to live with petitioner no.2 on her own free will in live-in-relationship alongwith her 5 years old female child. The

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respondent no.5 is threatening the petitioners and disturbing their relationship. It is submitted that petitioner no.1 moved application before the Superintendent of Police, Aligarh for providing protection to their matrimonial life, but no protection was provided to them, hence they moved this petition seeking writ order or direction in the nature of mandamus to restrained the respondent nos.2 to 4 in interfering in the peaceful living of the petitioners.

4. On the other hand, learned Standing Counsel submitted that petitioner no.1 is already married to respondent no.5, she has not obtained any divorce decree from the competent court from respondent no.5 and started living with petitioner no.2 in adultery. It is submitted that petitioner no.1 belongs to Muslim community and petitioner no.2 belongs to Hindu community and they have not complied with the provisions of sections 8 and 9 of Conversion Act, therefore, their relationship can not be protected by law.

5. I have heard the rival submissions of learned counsel for the parties and perused the record.

6. Perusal of record shows that in the present case petitioner no.1 is legally wedded wife of respondent no.5. There is no document on record to show that petitioner no.1 has obtained any decree of divorce from the court of competent jurisdiction, hence she is still legally wedded wife of respondent no.5 and she is living in adultery with petitioner no.2. The court could not protect such type

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of relationship which is not supported by law. If the court indulge in such type of cases and grant protection to illegal relationship, then it will create chaos in the society. The petitioner no.1 alongwith her 5 years old female child has left the house of her husband/respondent no.5 without any reasonable cause, hence such type of illegal relationship need not be protected by court. Therefore, the petitioners are not entitled to get any type of protection from this Court. The petition has no force and is liable to be dismissed with cost.

7. Accordingly, the present petition is dismissed with cost of Rs.2000/-

8. The petitioners are directed to deposit the costs of Rs.2000/- before the mediation centre of this Court within 15 days from today.

(Renu Agarwal,J.)

Order Date :- 15.2.2024
VKG