

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

Reserved on: 25.10.2021
Pronounced on:10.11.2020

OWP No.83/2019 (WP(C) No.203/2019

ANJUM AFSHAN & ORS. ...PETITIONER(S)

Through: - Mr. S. H. Thakur, Advocate.

Vs.

STATE OF J&K & ORS. ...RESPONDENT(S)

Through: - Mr. Sheikh Feroz, Dy. AG, vice
Mr. B. A. Dar, Sr. AAG, for R1 to R6.
Mr. M. S. Reshi, Advocate-for R7 to R9.

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1) Petitioners have filed the instant writ petition seeking a direction upon respondents to ensure safety of their life and honour. A further direction asking the official respondents to proceed against the private respondents in accordance with law has also been sought.

2) The case of the petitioners, in brief, is that the petitioner No.1 has entered into wedlock with petitioner No.2 out of her free will and volition against the wishes of her father i.e., respondent No.7. According to petitioner, respondent No.7, father of the petitioner No.1, is a person of ill repute who has entered into wedlock four

times and has divorced the mother of petitioner No.1. It is further averred that the respondent No.7 wanted to give petitioner No.1 in marriage to an illiterate truck driver and the same was resisted by petitioner No.1 who is stated to have lodged a complaint with Women's Commission in this regard. The petitioners are stated to have approached this Court by way of several writ petitions including OWP No.1064/2017 and OWP No.546/2016, which are pending before this Court. It is alleged that private respondents i.e., respondents No.6 to 9, invaded the house of the petitioners and raised a hue and cry over there and in case petitioners are not protected from the said respondents, they apprehend that they will be killed.

3) The petition has been resisted by respondents No.7 to 9 by filing a reply thereto. In their reply, it has been averred that the petitioner No.1 has managed to enter into a wedlock with petitioner No.2 by suppressing the fact that there is already a restraint order passed by learned Sub Judge, Sopore, whereby she has been restrained from contracting marriage. According to the said respondents, as per Shariat, consent of father his very important for marriage of daughter and without the consent of father, marriage is incomplete. It is further averred that as father, it is responsibility of respondent No.7 to watch welfare of his daughter.

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4) I have heard learned counsel for parties and perused the material on record.

5) It is not in dispute that the petitioners No.1 and 2 are major and it is also not in dispute that they have entered into a wedlock out of their own will and volition. The question whether learned Sub Judge, Sopore, was justified in passing an order of restraint on marriage of petitioner No.1 is left to be decided in appropriate proceedings. However, one thing is clear that even if petitioner No.1 has violated the said order, it is not open to respondent No.7 and his associates to harass the petitioners or to intimidate them. The proper course for them is to approach the concerned court seeking action for breach of its order. No law or religion gives a license to a father to harass or intimidate his major daughter just because she does not accede to wishes of her father to marry a particular person. It is not open to a father or relatives of a girl to take law into their own hands. It is the duty of the Court to protect life and liberty of a major girl who, out of her own volition, wants to reside separately from her father.

6) For the foregoing reasons, the writ petition is allowed to the extent that the respondents No.1 to 6 are directed to ensure that the petitioners are not harassed at the behest of respondents No.7 to 9 and it is also directed that they shall be given proper security as

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and when the official respondents are approached by petitioners in this regard.

(Sanjay Dhar)
Judge

SRINAGAR
10.11.2021
"Bhat Altaf, PS"

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No

