

Court No. - 37

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Case :- WRIT - C No. - 13545 of 2021

Petitioner :- Shivani @Sakeena

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Mukesh Chandra Gupta

Counsel for Respondent :- C.S.C.

Hon'ble Dr. Kaushal Jayendra Thaker,J.

1. Heard learned counsel for the petitioner and learned Standing Counsel for the State through video link.

2. By way of this writ petition, the petitioner has prayed the following prayer:

" Issue a writ or direction in the nature of mandamus directing/ commanding to the respondent no. 2 and 3 to provide the protection to the petitioners from the respondent no.4 as well as their relatives, both the petitioners are adult person, they have solemnized Marriage with free consent."

3. The petitioners have not produced any documentary evidence except the Aadhar Card that she is major. She has not produced any documentary evidence showing that she belongs Muslim religion and she now wants to adopt Hindu religion. It is made clear to the learned counsel for the petitioner that marriage as a Hindu cannot not be on a Stamp paper of Rs.50/- to which answer was that Justice Salil Kumar Rai has passed orders in such matters which is in Writ-C No. 10655 of 2021 (Yashi Devi and Another Vs. State of U.P. and 3 Others). In the present case, there is no sign that the parties want to have a marital life. No doubt, caste system exists, it is no where mentioned that they want to live as husband and wife. The petition does not even show that they are major. There is no documentary evidence showing that the petitioner no.1 Shivani @ Sakeena is major. On the contrary, there is already a First Information Report filed

under Section 363 and 366 dated 25.10.2020 against Bholu alias Rohan Singh.

4. This Court is not aware that what has happened to the First Information Report as nothing has been spelled out in this petition. Annexure No.7 which is the statement of the girl that she had left the house in that also she says that her age is 21 years. Bholu alias Rohan Singh is on bail granted by learned Sessions Judge, Agra. The petition filed by the petitioners for quashing the petition was also rejected by the judgment of the Division Bench in Criminal Misc. Writ Petition No.88 of 2021 (Bholu Alias Rohan Singh Vs. State of U.P. and 3 others). The fact that she is major has not been revealed by the judgment of Division Bench when the quashment petition was filed.

5. May that as it may be, only on the basis of the Aadhar Card, this Court cannot opine that Shivani @ Sakeena who has preferred this petition is a major. The petitioners if they wanted would have entered into a wedlock either under the Muslim Marriage or under the Hindu Marriage Act, this Court is not even shown as to how the Judgment of Justice Salil Kumar Rai will help the petitioners once the petitioner's petition for quashment has been dismissed. However, if the petitioners move the police authorities with all cogent evidence and if the police authorities feels that there is real danger to their life, the police authorities may provide them what is known as protection. This Court is not against granting protection. This Court has granted protection in Writ-C No.13539 of 2021 (Yogita Singh and another Vs. State of U.P. and others) today itself when mark sheet was shown and depicted the age of girl and they had entered into a legal wedlock. The petition here lacks all these particulars and therefore the protection order cannot be passed.

6. With these observations, this petition stands **dismissed**.

7. This Court is thankful to learned A.G.A. for ably assisting the Court.

Order Date :- 5.7.2021

Krishna*