

**Court No. - 65**

**Case :-** WRIT - C No. - 18835 of 2020

**Petitioner :-** Smt. Savita Diwakar And Another

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

**Counsel for Petitioner :-** Shailesh Kumar Shukla

**Counsel for Respondent :-** C.S.C.

**Hon'ble Saumitra Dayal Singh,J.**

1. Learned counsel for the petitioners may remove the defects by tomorrow.

2. By means of present writ petition, the petitioners have prayed for direction in the nature of mandamus directing the respondents not to interfere in their peaceful married life.

3. Learned counsel for the petitioners submits that petitioner nos. 1 & 2 have attained the age of majority and that their marriage was solemnized. Petitioners further assert that no F.I.R. has been registered against them in respect of the same and that their marriage was solemnized with their free consent without duress on any party. The petitioners further allege that they are being threatened and harassed by respondents for reason of having thus got married.

4. In **Lata Singh vs. State of UP 2006 Cr.L.J. 3312**, while dealing with a case of harassment by the parents of the boy and girl, who had entered into inter-caste marriage, the Supreme Court has issued directions to the Administration /Police authorities throughout the country in the following terms:-

*"This is a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-caste or inter-religious marriage the maximum they can do is that they can cut off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage. **We, therefore, direct that the administration/police authorities throughout the country will see to it that if any boy or girl who is a major undergoes inter-caste or inter-religious marriage with a woman or man who is a major, the couple are not harassed by any one nor subjected to threats or acts of violence, and any one who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law.**"*

(emphasis supplied)

5. In **Bhagwan Dass v. State (NCT of Delhi), (2011) 6 SCC 396** the Supreme Court held in paragraph 28 and 29 as under:-

*"28. .... Often young couples who fall in love have to seek shelter in the police lines or protection homes, to avoid the wrath of kangaroo courts. We have held in Lata Singh case that there is nothing "honourable" in "honour" killings, and they are nothing but barbaric and brutal murders by bigoted persons with feudal minds. **In our opinion honour killings, for whatever reason, come within the category of the rarest of rare cases deserving death punishment. It is time to stamp out these barbaric, feudal practices which are a slur on our nation. This is necessary as a deterrent for such outrageous, uncivilised behaviour. All persons who are planning to perpetrate "honour" killings should know that the gallows await them.***

*29. Let a copy of this judgment be sent to the Registrars General/ Registrars of all the High Courts who shall circulate the same to all the Judges of the Courts. The Registrars General/ Registrars of the High Courts will also circulate copies of the same to all the Sessions Judges/Additional Sessions Judges in the States/Union Territories. Copies of the judgment shall also be sent to all the Chief Secretaries/Home Secretaries/Directors General of Police of all States/Union Territories in the country. The Home Secretaries and Directors General of Police will circulate the same to all SSPs/SPs in the States/Union Territories for information."*

(emphasis supplied)

6. Learned Standing counsel states that the above observations and directions issued by the Supreme Court are being enforced in the State of U.P. and that no further direction is required to be issued by this Court at this stage as it is a mere apprehension of the petitioners that the private respondents may commit some act of violence and or harass the petitioner.

7. As on date it is clear that the petitioners claim have exercised their freewill/choice and further claim to have got married against wishes of some relatives.

8. In view of the above, subject to removal of defects, the writ petition may be **disposed of** with the direction; (i) In case of violation of the aforesaid direction issued by the Supreme Court, the petitioners may approach the concerned Senior Superintendent of Police or Superintendent of Police with a certified copy of this order, who is obliged to ensure full compliance of the directions issued by the Supreme Court in the cases of

**Lata Singh and Bhagwan Das (supra)**, extracted above. He may obtain and keep on record a response/report from the S.H.O of the concerned P.S. as to steps taken to comply with the aforesaid direction of the Supreme Court, in the facts of the present case.

9. However, it is made clear the Court has not adjudicated the validity of the marriage and/or genuineness of their marriage certificate claimed by the petitioners or the correct age of the petitioners. It is further clarified, this order has not been passed to protect the petitioners against any action or proceedings instituted in accordance with law. The order seeks to protect the life and liberty of the petitioners from any threat arising from or being occasioned by their marriage - life and liberty being the foundation of all freedoms guaranteed under our Constitution.

**Order Date :-** 20.11.2020

Abhilash