

MANU/SC/2960/2006

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IN THE SUPREME COURT OF INDIA

Writ Petition (Criminal) No. 208 of 2004

Decided On: 07.07.2006

Lata Singh **Vs.** State of U.P. and Ors.

Hon'ble Judges/Coram:

Ashok Bhan and Markandey Katju, JJ.

Counsels:

For Appellant/Petitioner/Plaintiff: Sakesh Kumar, Yogmaya Agnihotri and Rameshwar Prasad Goyal, Advs.

For Respondents/Defendant: Reena Singh and Jatinder Kumar Bhatia, Advs.

Case Note:

Constitution of India - Article 21, 25 19(1)(a), 32, 38, 51A(e) - Scope of - Right to marry of one's choice inter-caste marriages - Issuance of writ of certiorari/mandamus to quash vexatious/malicious criminal proceedings - Practice and Procedure - Matter involving freedom of conscience and expression in terms of right to marry of one's choice outside one's caste.

Held: The caste system is a curse on the nation and the sooner it is destroyed the better. In fact, it is dividing the nation at a time when we have to be united to face the challenges before the nation unitedly. Hence, inter-case marriages are in fact in the national interest as they will result in destroying the caste system. However, disturbing news are coming from several parts of the country that young men and women who undergo Inter-caste marriage, are threatened with violence, or violence is actually committed on them. In our opinion, such acts of violence or threats or harassment are wholly illegal and those who commit them must be severely punished. 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-casts 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 is not harassed by anyone nor subjected to threats or acts of violence, and anyone 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. We sometimes hear of

"honour" killings of such persons who undergo inter-caste or inter-religious marriage of their own free will. There is nothing honourable in such killings, and in fact they are nothing but barbaric and shameful acts of murder committed by brutal, feudal-minded persons who deserve harsh punishment. Only in this way can we stamp out such acts of barbarism.

JUDGMENT

Markandey Katju, J.

1. This writ petition under Article 32 of the Constitution of India has been filed a prayer for issuing a writ of certiorari and/or mandamus for quashing Sessions Trial No. 1201 of 2001 under Sections 366 and 368 of the Penal Code arising out of FIR No. 336 of 2000 registered at Police Station Sarojini Nagar, Lucknow and pending in the Fast Track Court V, Lucknow. The facts of the case are as under:

The Petitioner is a young woman now aged about 27 years who is a graduate and at the relevant time was pursuing her Masters course in Hindi in Lucknow University. Due to the sudden death of her parents she started living with her brother Ajay Pratap Singh at LDA Colony, Kanpur Road, Lucknow where she did her Intermediate in 1997 and graduation in 2000.

2. It is alleged by the Petitioner that on 2-11-2000 she left her brother's house of her own free will and got married at Arya Samaj Mandir, Delhi to one Brahma Nand Gupta who has business in Delhi other places and they have a child from this wedlock.

3. Thereafter on 4-11-2000, the Petitioner's brother lodged a missing person report at Sarojini Nagar Police Station, Lucknow and consequently the police arrested two sisters of the Petitioner's husband along with the husband of one of the sisters and the cousin of the Petitioner's husband. The persons arrested were Mamta Gupta, Sangita Gupta (sisters of Brahma Nand Gupta), as well as Rakesh Gupta (husband of Mamta Gupta) and Kallu Gupta, cousin of the Petitioner's husband, Mamta was in jail with her one-month-old child.

4. It is further alleged that the Petitioner's brothers Ajay Pratap Singh, Shashi Pratap Singh and Anand Pratap Singh were furious because the Petitioner underwent an inter-caste marriage, and hence they went to the Petitioner's husband's paternal residence and vehemently beat up her husband's mother and uncle, threw the luggage, furniture, utensils, etc. from the house and locked it with their lock. One brother of the Petitioner's husband was allegedly locked in a room by the Petitioner's brothers for four or five days without meals and water. The Petitioner's brothers also allegedly cut away the harvest crops of the agricultural field of the Petitioner's husband and sold it, and they also took forcible possession of the field. They also lodged a false police report alleging kidnapping of the Petitioner against her husband and his relatives at Police Station Sarojini Nagar, Lucknow, due to which the sisters of the Petitioner's husband, and the husband of one of the sisters, were arrested and detained in Lucknow jail. The Petitioner's brothers also illegally took possession of the shop of the Petitioner's husband. The Petitioner's husband has a shop at Badan Singh Market, Rangpuri in the name of Gupta Helmet Shop whose possession was forcibly taken over by her brothers.

5 . It is further alleged that the Petitioner's brothers are threatening to kill the Petitioner's husband and his relatives, and to kidnap and kill her also. The Gupta family members are afraid of going to Lucknow out of fear of violence by the Petitioner's brothers, who are of a criminal bent.

6. It is alleged that the Petitioner's husband and relatives have been falsely framed by her brothers Shashi Pratap Singh, Ajay Pratap Singh and Anand Pratap Singh who were furious because of the inter-caste marriage of the Petitioner with Brahma Nand Gupta. Mamta Gupta, Rakesh Gupta and Singita Gupta were arrested on 17-12-2000, whereas Kallu Gupta was arrested on 2-12-2000. It is alleged that the three relatives of the Petitioner's husband were not granted bail for a long time and their lives got ruined though there was no case against them that they instigated the Petitioner to get married to Bramha Nand Gupta. It is also alleged that the Petitioner ran from pillar to post to save her husband and relatives from harassment and she then approached the Rajasthan Women Commission, Jaipur, as she was staying in Jaipur almost in hiding apprehending danger to her and her husband's life. The Commission recorded her statement on 13-3-2001 and the same was forwarded to the Superintendent of Police (City), Lucknow for necessary action.. The President of the Rajasthan State Women Commission also were a letter to the National Human Rights Commission on 13-3-2001 requesting the Commission and the Chief Secretary, Government of Uttar Pradesh, to intervene in the matter.

7. A final report was submitted by the SHO, Police Station Sarojini Nagar, Lucknow before the learned Judicial Magistrate inter alia mentioning that no offence was committed by any of the accused persons and consequently the learned Sessions Judge, Lucknow enlarged the accused on bail on furnishing a personal bond on 16-5-2001 by observing that neither was there any offence nor were the accused involved in any offence. The Superintendent of Police, Lucknow informed the National Human Rights Commission that all the accused persons have been released on bail on 17-5-2001.

8. Thereafter the investigating officer recorded the statement of the Petitioner Lata Gupta @ Lata Singh on 28-5-2001 and for this purpose armed security was provided to her. The learned Chief Judicial Magistrate, Lucknow recorded the statement of the Petitioner under Section 164 Code of Criminal Procedure on 29-5-2001. In that statement the Petitioner stated that she married Brahma Nand Gupta of her own free will. Despite this statement, the learned Chief Judicial Magistrate, Lucknow passed the committal order on 5-10-2001 ignoring the fact that the police had already filed a final report in the matter.

9. It appears that a protest petition was filed against the final report of the police alleging that the Petitioner was not mentally fit. However, the Petitioner was medically examined by the Board of Doctors of Psychiatric Centre, Jaipur who have stated that the Petitioner was not suffering from any type of mental illness.

10. The Fast Track Court, Lucknow before whom the case was pending issued non-bailable warrants against all the four accused, and against the order of the Fast Track Court, the accused filed a petition under Section 482 Code of Criminal Procedure in the Allahabad High Court (Lucknow Bench) which was registered as Crl. Misc. No. 520 of 2003. The High Court directed the accused to appear before the Sessions Judge who would himself scrutinise whether the accused committed any offence or not. The matter is still pending.

11. The Petitioner alleged that she cannot visit Lucknow as she apprehends danger to her life and the lives of her husband and small child. She has further alleged that her brothers have assaulted, humiliated and irreparably harmed the entire family members of her husband Brahma Nand Gupta and their properties, and even the remote relatives were not spared and agricultural lands and shops were forcibly taken over by the brothers of the Petitioner and the lives of the Petitioner and her husband are in constant

danger as her brothers have been threatening them.

12. We have considered the above facts and have heard learned Counsel for the Petitioner and the learned Counsel for the State Government.

13. This case reveals a shocking state of affairs. There is no dispute that the Petitioner is a major and was at all relevant times a major. Hence she is free to marry anyone she likes or live with anyone she likes. There is no bar to an inter-caste marriage under the Hindu Marriage Act or any other law. Hence, we cannot see what offence was committed by the Petitioner, her husband or her husband's relatives.

14. We are of the opinion that no offence was committed by any of the accused and the whole criminal case in question is an abuse of the process of the court as well as of the administrative machinery at the instance of the Petitioner's brothers who were only furious because the Petitioner married outside her caste. We are distressed to note that instead of taking action against the Petitioner's brothers for their unlawful and high-handed acts (details of which have been set out above), the police has instead proceeded against the Petitioner's husband and his relatives.

15. Since several such instances are coming to our knowledge of harassment, threats and violence against young men and women who marry outside their caste, we feel it necessary to make some general comments on the matter. The nation is passing through a crucial transitional period in our history, and this Court cannot remain silent in matters of great public concern, such as the present one.

16. The caste system is a curse on the nation and the sooner it is destroyed the better. In fact, it is dividing the nation at a time when we have to be united to face the challenges before the nation unitedly. Hence, inter-caste marriages are in fact in the national interest as they will result in destroying the caste system. However, disturbing news are coming from several parts of the country that young men and women who undergo inter-caste marriage, are threatened with violence, or violence is actually committed on them. In our opinion, such acts of violence or threats or harassment are wholly illegal and those who commit them must be severely punished. 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-casts 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 is not harassed by anyone nor subjected to threats or acts of violence, and anyone 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.

17. We sometimes hear of "honour" killings of such persons who undergo inter-caste or inter-religious marriage of their own free will. There is nothing honourable in such killings, and in fact they are nothing but barbaric and shameful acts of murder committed by brutal, feudal-minded persons who deserve harsh punishment. Only in this way can we stamp out such acts of barbarism.

18. In the circumstances, the writ petition is allowed. The proceedings in Sessions Trial No. 1201 of 2001 titled State of U.P. v. Sangita Gupta arising out of FIR No. 336 of 2000 registered at Police Station Sarojini Nagar, Lucknow and pending in the Fast Track Court V, Lucknow are quashed. The warrants against the accused are also quashed. The police at all the places concerned should ensure that neither the Petitioner nor her husband nor any relatives of the Petitioner's husband are harassed or threatened nor any acts of violence are committed against them. If anybody is found doing so, he should be proceeded against sternly in accordance with law, by the authorities concerned. We further direct that in view of the allegations in the petition (set out above) criminal proceedings shall be instituted forthwith by the authorities concerned against the Petitioner's brothers and Ors. involved, in accordance with law. Petition allowed.

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