

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.511 of 2022

Arising Out of PS. Case No.- Year-0 Thana- District- Patna

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Amit Raj, Male aged about 35 years, Son of Sri Janardan Prasad, Resident of C/O- Dwarika Prasad, Babu Tola Lane, Govind Mitra Road, P.S.- Pirbahore, P.O.- Bankipur, District- Patna Presently Residing at 304, Sri Ram Palace, East Boring Canal Road, P.S.- Budha Colony, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary (Home), Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Superintendent of Police, Patna.
4. The Superintendent of Police, Gopalganj.
5. The Officer-In-Charge (SHO), Pirbahore Police Station, District- Patna.
6. The Officer-In-Charge (SHO), Budha Colony Police Station, District- Patna.
7. The Officer-In-Charge (SHO), Gopalganj Town Police Station, District- Gopalganj.
8. Ranjan Kumar Singh, Son of Late Harendra Prasad Singh.
9. Rinku Singh @ Rinku Devi, Wife of Sri Ranjan Kumar Singh.
10. Simran Singh Rajput, Wife of Amit Raj.
All Residents of Ambedkar Chouk, Ward No.-21, P.S.- Gopalganj Town, District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S. D. Sanjay, Senior Advocate Mrs. Priya Gupta, Advocate Mr. Akshat Agrawal, Advocate
For R8 and R9	:	Mr. Ansul, Advocate Mr. Md. Sufiyan, Advocate
For the State/R1 to R7	:	Mr. Prabhu Narayan Sharma, Advocate, AC to AG

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
and
HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date : 21-06-2022



Heard Mr. S. D. Sanjay, learned senior counsel with Mrs. Priya Gupta and Mr. Akshat Agrawal, learned counsel for the petitioner; Mr. Ansul and Mr. Md. Sufiyan, learned counsel on behalf of respondents no.8 and 9; and Mr. Prabhu Narayan Sharma, learned Assistant Counsel to the learned Advocate General for the State/respondents no.1 to 7. The present hearing has been conducted in Chambers.

2. Yesterday, on 20.06.2022, the matter was taken up in Chambers and in terms of the order, the Senior Superintendent of Police, Patna (hereinafter referred to as the 'SSP, Patna') and the City S.P., Central, Patna are present in person.

3. The Court had indicated yesterday that after interaction with the respondent no.10, we felt, and as she herself unequivocally expressed, she had voluntarily married the petitioner. Today, the father of the respondent no. 10 [viz. Mr. Ranjan Kumar Singh (respondent no.8)]; the mother-in-law of the respondent no.10 (Mrs. Jyoti Devi); brother-in-law of the respondent no.10 (Mr. Aatish Kumar); sister-in-law of the respondent no.10 (Mrs. Mona Shreen) as also the petitioner, are present before us. Besides them, Mr. Divyanshu Kumar and Mr. Prince Kumar, two of the three witnesses to the marriage



solemnised between the petitioner and the respondent no.10 under The Special Marriage Act, 1954 are also present.

4. Today, the Court has interacted, *in extenso*, with the father of respondent no.10 (being respondent no.8) and the family members of the petitioner, noted *supra*. The Court is further convinced that the marriage between the petitioner and the respondent no.10 is genuine and they want to continue with the marriage. Though, the respondent no.8 still has some reservation with accepting the relationship, but ultimately said that his only concern was that his daughter should be safe and secure. The family members of the petitioner took a clear stand that the respondent no.10 would be accepted in the house as a family member, would be given her due status and respect as the wife of the petitioner, and further, that they would not only not come in the way of the respondent no.10 pursuing what she wants academically or in life but would also actively support her in any such endeavour, which she may wish to pursue.

5. At this juncture, to allay the fears of the family of the respondent no.10, especially her father/respondent no.8 who is present in Court as also to ensure that the respondent no.10 is safe wherever she lives, including at the house of her in-laws as also the place where she may reside with her husband/petitioner, the



Court solicited the views of the SSP, Patna as well as the City S.P., Central, Patna. They suggested a few short-term as also certain long-term measures.

6. Having had the benefit of their views, the Court feels that the concern of security can be appropriately addressed by the SSP, Patna and the City S.P., Central, Patna being the authorities competent to deal with the issue and most importantly, the Court reposes its faith in them inasmuch as they would make adequate arrangement to ensure the safety and well-being of the respondent no.10.

7. It is no more *res integra* that a girl, if major, is free to marry and/or reside with anyone of her choice. It is appropriate to revisit some authorities, foreign and domestic, to restate the legal position. Article 16 of the Universal Declaration of Human Rights, 1948 (be it noted, to which India is a signatory) reads thus:

‘(1) Men and Women of full age, without any limitation due to race, nationality or religion, have the right to marry and found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution;

(2) Marriage shall be entered into only with the free and full consent of the intending spouses;

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society.’

(emphasis supplied)



8. Article 23 of the International Covenant on Civil and Political Rights (adopted by the United Nations General Assembly) states:

- ‘1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State;*
- 2. The right of men and women of marriageable age to marry and to found a family shall be recognized;*
- 3. No marriage shall be entered into without the free and full consent of the intending spouses;*
- 4. Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.’*
(emphasis supplied)

9. In ***Sangita Rani (Smt.) @ Mehnaz Jahan v State of Uttar Pradesh, 1992 Supp (1) SCC 715***, the Hon’ble Supreme Court in the factual matrix therein, *inter alia*, of the spouses being major and the marriage being valid, held that the marriage was to be sustained. That a major can marry anyone of choice is the *dictum* in ***Lata Singh v Union of India, (2006) 5 SCC 475***. The freedom of choice in marriage is an aspect encompassed in Article 21 of the Constitution of India [See ***Indian Woman ... on Orders of Village Court, In Re, (2014) 4 SCC 786***].

10. We are mindful that choice inheres in the right to privacy as well, for which reference to ***Justice K S Puttaswamy v Union of India, (2017) 10 SCC 1*** is apt. A woman’s choice of selecting her partner is a facet duly recognised by our Constitution,



as held in *Asha Ranjan v State of Bihar*, (2017) 4 SCC 786. The consent of the family/clan/community is unnecessary for two individuals to marry – it is an act of choice, and enshrined under Articles 19 and 21 of the Constitution, as per *Shakti Vahini v Union of India*, (2018) 7 SCC 192. In *Shafin Jahan v Asokan KM*, AIR 2018 SC 357, the Hon'ble Supreme Court categorically stated that the free ability of a person to decide on matters like marriage cannot be limited, and further, that societal approval of intimate personal relationships is not a basis for granting them recognition in the eyes of law. The Hon'ble Supreme Court in *Sangita Rani (supra)* had also cautioned the parents to accept the marriage, without creating any hindrance.

11. The situation would not be different, even if the modern concept of live-in is considered, so long as the parties are major and choose to be together of their own volition without pressure or coercion. In *Satyawati Sharma v Union of India*, 2008 (6) SCALE 325 and *Kashmir Singh v Union of India*, (2008) 7 SCC 729, it has been opined that while interpreting law, the Court must also factor in changes in the societal conditions, which would be relevant facts.

12. This Court, besides being bound to follow the law laid down by the Hon'ble Supreme Court, shall not hesitate to



protect the fundamental rights of citizens. In view of the aforesaid discussion, the respondent no.10, without opposition from the respondent no.8, is permitted to accompany the petitioner and go with him to the matrimonial home from the Court itself. To facilitate such exercise, the petitioner and his family members and the respondent no.10 shall visit the office of the SSP, Patna at 6.00 PM today (21.06.2022), where the modalities with regard to ensuring the safety and security of the respondent no.10 shall be worked out. The Court records the unambiguous undertaking by the petitioner and his relatives with regard to maintaining the safety, well-being, dignity and honour of the respondent no.10 at all times. Further, the petitioner and his family members also undertake that the respondent no.10 shall be free to pursue her academic and professional desires, and personal expenses as also of her boarding, lodging and medical exigencies, if any, shall be borne by the petitioner and his family members. The petitioner and his family members are bound to their statements afore-noted.

13. The SSP, Patna would arrange, in addition to whatever other measures he deems fit along with the City S.P., Central, Patna, that a lady police officer of sufficient seniority would exchange her mobile phone number with the respondent no.10 and *vice-versa*. Such lady police officer should be duly



instructed to receive and revert to any phone call/text/WhatsApp message from respondent no.10, and respond/act promptly, as deemed appropriate under the circumstances.

14. For obviating any doubt, it is clarified that respondent no.10 shall be free to talk to/meet/visit any person she desires without any let or hindrance either from the petitioner or his family members.

15. We are informed that respondent no.10 has filed Title Suit No.381 of 2022 before the learned Sub-Judge 1st, Gopalganj for declaring her marriage with the petitioner as null and void. The respondent no.10 has stated before us that she is not desirous of proceeding with Title Suit No.381 of 2022, and, under duress, was made to sign papers leading to the institution thereof. Although we were initially inclined to open appropriate proceedings against the persons concerned for such misadventure, on an overall circumspection, we refrain from doing so in the larger interest of the couple. The petitioner has also instituted a First Information Report (hereinafter referred to as 'FIR') being Budha Colony PS Case No.181 of 2022 against the family members of respondent no.10.

16. As the parties and their respective family members are endeavouring a fresh start by letting go of the past, no useful



purpose would be served by allowing either the Title Suit or the FIR to linger.

17. In our considered view, this is a fit case to mould relief to render substantive justice to the parties. One of us (Ahsanuddin Amanullah, J.), presiding over a Division Bench at the Andhra Pradesh High Court, had the occasion to consider the powers under Article 226 of the Constitution to mould relief, in *Mangalagiri Textile Mills Private Limited v State Bank of India*, 2022 SCC OnLine AP 525, and held:

‘45. The power to mould relief is an inherent and intrinsic component of Article 226. At Paragraph 5 of B.R. Ramabhadraiah v. Secretary, Food and Agriculture Dept., AP, (1981) 3 SCC 528 and Paragraph 4 of State of Rajasthan v. Hindustan Sugar Mills Ltd., (1988) 3 SCC 449, it has been held that under Article 226, the High Court's power includes the capacity to mould relief to remedy injustice and as per the demand of the situation. In Air India Statutory Corporation v. United Labour Union, (1997) 9 SCC 377, it was observed:

“59. The Founding Fathers placed no limitation or fetters on the power of the High Court under Article 226 of the Constitution except self-imposed limitations. The arm of the Court is long enough to reach injustice wherever it is found. The Court as sentinel on the qui vive is to mete out justice in given facts. On finding that either the workmen were engaged in violation of the provisions of the Act or were continued as contract labour, despite prohibition of the contract labour under Section 10(1), the High Court has, by judicial review as the basic structure, a constitutional duty to enforce the law by appropriate directions. The right to judicial review is now a basic structure of the Constitution by a catena of decisions of this Court starting



from Indira Nehru Gandhi v. Raj Narain [1975 Supp SCC 1 : AIR 1975 SC 2299] to Bommai case [(1994) 3 SCC 1]. It would, therefore, be necessary that instead of leaving the workmen in the lurch, the Court properly moulds the relief and grants the same in accordance with law.

(emphasis supplied)

46. Moreover, in Rajesh Kumar v. State of Bihar, (2013) 4 SCC 690, particularly at Paragraphs 14-16, it has been held that the power to mould relief is well-recognised and is available to a Writ Court to render complete justice.

47. We have noticed an injustice and a violation of law. We, thus, proceed to fashion out the appropriate relief, despite no formal application for the same being made via pleadings. However, in the course of arguments, learned counsel for the petitioner did urge us to pass an order that would subserve justice.'

(emphasis supplied via bolding, underlining in original)

18. Albeit under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'CrPC'), the power to quash criminal proceedings, including those involving non-compoundable offences, has been enunciated in **Gian Singh v State of Punjab, (2012) 10 SCC 303** and **State of Madhya Pradesh v Laxmi Narayan, (2019) 5 SCC 688**. In similar vein is the decision in **Ramgopal v State of Madhya Pradesh, 2021 SCC OnLine SC 834**, wherein the Hon'ble Supreme Court held that the High Court is equipped with the power to compound even non-compoundable offences, regard being had to the factual matrix of the case at hand.



19. Accordingly, with the consent of the petitioner (informant), Budha Colony PS Case No.181 of 2022 is quashed. Title Suit No.381 of 2022 is dismissed with the consent of respondent no.10 (plaintiff). The Registry shall forthwith transmit copies of this judgement to the Court before which Budha Colony PS Case No.181 of 2022 is pending, as also to the Court of the learned Sub-Judge 1st, Gopalganj, where Title Suit No.381 of 2022 is pending. The Court in *seisin* of the FIR shall record the quashment thereof and the learned Sub-Judge 1st, Gopalganj shall dismiss the Title Suit. *Ex abundanti cautela*, we record that the petitioner and the respondents no.8, 9 and 10 are *ad idem* on such course of action.

20. This Court would indicate that the SSP, Patna would, in conjunction with the Superintendent of Police, Gopalganj, make appropriate enquiry into the role of one Ujwal Singh Raftar, who is stated to have threatened the petitioner for which he has preferred a complaint in PS Budha Colony in the third week of May, 2022.

21. The police authorities at Patna and Gopalganj shall factor in all material aspects to ensure that the family members of both sides *viz.* of respondent no.8 and the petitioner, including the respondent no.10 are not put under any threat from any quarter



whatsoever, concerns of which were expressed during the hearing, when the Court interacted with the parties.

22. At this juncture, Mr. Prabhu Narayan Sharma, learned Assistant Counsel to Advocate General submitted that since the age of the petitioner now is almost 35 years, the Court may ascertain for its satisfaction as to whether he was ever married previously and whether this is his first marriage or a second marriage after divorce. The Court put a direct query to the petitioner and his relatives *qua* this and they adopted a categorical stand that the petitioner was never married earlier, and hence, never divorced. They further stated that the love affair between the petitioner and the respondent no.10 had started many years back, when the petitioner was aged 29 years.

23. The respondent no.8 informs the Court that he has been receiving threatening and abusive calls from a particular number, which he does not readily recollect. The Court grants him liberty to indicate such number to his learned counsel who, in turn, will pass on the same to Mr. Prabhu Narayan Sharma, for onward transmission to the SSP, Patna. The SSP, Patna will take necessary steps to ensure that the person concerned is subjected to the rigours of law and the threatening/abusive calls cease.



24. Before concluding, the Court notes that at any point of time, if any party has an actual apprehension apropos any threat, he/she shall be at liberty to approach this Court.

25. With the observations and directions *supra*, this criminal writ petition stands disposed of.

(Ahsanuddin Amanullah, J)

(Purnendu Singh, J)

Anand Kr.

AFR/NAFR	AFR
Uploading Date	
Transmission Date	

