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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 3045/2023**

MD NEMAT ALI AND ANOTHER Petitioners

Through: **Mr. Anuj Soni**, Advocate with
petitioners in person.

versus

THE STATE AND OTHERS Respondents

Through: **Ms. Rupali Bandhopadhya**, ASC for
the State with **Mr. Akshay Kumar**
and **Mr. Abhijeet Kumar**, Advocates
with **Insp. Dharmender Kumar**, SI
Pardeep, PS: **Jahangir Puri**.
Insp. Arun Kumar (SHO) and **ASI**
Balbir.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

17.10.2023

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CRL.M.A. 28397/2023(for exemption)

1. Allowed subject to all just exceptions.
2. The application stands disposed of.

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3. The present petition under Article 226 of the Constitution of India read with Section 482 Cr.P.C. has been filed by the petitioners seeking issuance of a writ in the nature of *mandamus* directing respondent nos.2 and 3 to provide protection to the petitioners against life and liberty threats given by respondent no.4 and 5, being the father and uncle of the petitioner no.2, respectively.

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4. Learned counsel for the petitioners submits that the petitioners are major who got married to each other on 06.10.2023 according to Muslim rites and ceremonies. The *Nikahnama* was duly registered by a Qauzi in accordance with Muslim law. He further submits that the respondent nos.4 and 5 threatening the petitioners and the petitioner no.1's family members of dire consequences as the marriage was solemnised against the wishes of respondent no.4 and 5.

5. The right to marry is an incident of human liberty. The right to marry a person of one's choice is not only underscored in the Universal Declaration of Human Rights, but is also an integral facet of Article 21 of The Constitution of India, which guarantees the right to life.

6. The Hon'ble Supreme Court of India has highlighted the right of every individual to marry a person of his or her choice in *Shafin Jahan v. Asokan K.M.* (2018) 16 SCC 368, wherein the following observations have been made:

“86. The right to marry a person of one's choice is integral to Article 21 of the Constitution. The Constitution guarantees the right to life. This right cannot be taken away except through a law which is substantively and procedurally fair, just and reasonable. Intrinsic to the liberty which the Constitution guarantees as a fundamental right is the ability of each individual to take decisions on matters central to the pursuit of happiness. Matters of belief and faith, including whether to believe are at the core of constitutional liberty. The Constitution exists for believers as well as for agnostics. The Constitution protects the ability of each individual to pursue a way of life or faith to which she or he seeks to adhere. Matters of dress and of food, of ideas and ideologies, of love and partnership are within the central aspects of identity. The law may regulate (subject to



constitutional compliance) the conditions of a valid marriage, as it may regulate the situations in which a marital tie can be ended or annulled. These remedies are available to parties to a marriage for it is they who decide best on whether they should accept each other into a marital tie or continue in that relationship. Society has no role to play in determining our choice of partners.”

7. When the parties herein are two consenting adults who have chosen to willingly agree to join hands by way of marriage, there can hardly be any impediment on the way, be it from the parents/ relatives or the Society at large or the State. There is nothing left for anybody to interfere in the lives of the parties herein. The Hon’ble Supreme Court in ***Lata Singh v. State of U.P. & Another*** (2006) 5 SCC 475 has made the following observations:-

“... .. 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-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”

8. The petitioners in the present case are both major and are well within their rights to marry each other. The respondent nos.4 and 5, though family members of the petitioner no.2, cannot be allowed to threaten the life and liberty of the petitioners, who do not require any social approval for their personal decisions and choices.

9. *Article 21* of The Constitution of India gives Protection of Life and Personal Liberty to all persons whereby it is the inherent right of every individual to exercise personal choices, especially in matters relating to marriage. Thus, in the opinion of this Court, the petitioners herein are well and truly entitled for protection under *Article 21* of The Constitution of India.

10. Accordingly, the petition is allowed and the petitioners shall be free to call or get in touch with either the SHO (Inspector Arun Kumar Chauhan-+918750870228) or the Beat Constable (ASI Balbir-+917011046502) PS: Jahangirpuri, Delhi, as and when the need so arises.

11. Needless to say that the SHO and the Beat Constable concerned shall also take all possible steps to provide adequate assistance and protection, as and when needed, to the petitioners, in accordance with law.

12. Accordingly, the petition is disposed of.

SAURABH BANERJEE, J

OCTOBER 17, 2023/So