

Serial No. 99

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP(C) No. 2683/2024
CM No. 6527/2024

- 1. Rishav Billoria, Age 29 years,** Petitioner(s)
S/O Jagdish Billoria;
- 2. Nidhi, Age 25 years,**
W/O Rishav Billoria D/O Rajinder Kumar

Through: Mr. Nakul Sharma, Advocate.
Petitioners are present in person.

Vs

- 1. UT of J&K Th.** Respondent(s)
Commissioner Secretary, Department of Home,
Civil Secretariat, Jammu/Srinagar;
- 2. SSP, Jammu;**
- 3. Station House Officer, Police Station,**
Gandhi Nagar, District Jammu;
- 4. Rajinder Lalotra S/O Krishan Lal;**
- 5. Sapna Lalotra W/O Rajinder Lalotra;**
- 6. Nikhil S/O Rajinder Lalotra;**
- 7. Akhil Lalotra S/o Rajinder Lalotra**

All residents of H.No. 272, Ward No. 28, Bakshi
Nagar, Jammu.

Through: Mr. Pawan Dev Singh, Dy. AG.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

ORDER
(08.11.2024)

1. Petitioners claim that they, being major, have contracted marriage out of their freewill and are living as husband and wife, but are apprehensive to be subjected to physical violence and harassment at hands of their relatives, as petitioners have contracted marriage against their wishes. Petitioners, therefore, seek protection and security from respondents.

2. Heard, perused and considered.

3. Perusal of record annexed with writ petition, *prima facie*, reveals that petitioners are major and have contracted marriage on 11.10.2024, according to Hindu Personal Law, rites and customs.

4. When two adults, consensually, choose each other as life partners, it is manifestation of their choice that is recognised under Articles 19 and 21 of the Constitution. Such right has sanction of constitutional law and once that is recognised, said right needs to be protected and it cannot succumb to conception of class, honour or group thinking. Consent of family or community or clan is not necessary, once two adult individuals agree to enter into wedlock and their consent has to be piously given primacy. The concept of liberty has to be weighed and tested on the touchstone of constitutional sensitivity, protection and values it stands for.

5. It is the obligation of the Constitutional Courts as the sentinel on *qui vive* to zealously guard the right to liberty of an individual as dignified existence of an individual has an inseparable association with liberty. Thus, it is emphatically clear that life and liberty sans dignity and choice is a phenomenon that allows hollowness to enter into the constitutional recognition of identity of a person. The choice of an individual is an extricable part of dignity, for dignity cannot be thought of, where there is erosion of choice and no one shall be permitted to interfere in the fructification of the said choice. If right to express one's own choice is obstructed, it would be extremely difficult to think of dignity in its sanctified completeness.

6. When two adults marry out of their volition, they choose their path; they consummate their relationship; they feel that it is their goal and they have the right to do so. And it can unequivocally be stated that they have the right and any infringement of the said right is a constitutional violation.

7. Keeping in view the prayer made, writ petition is disposed of with a direction to official respondents to provide adequate protection to petitioners and act in accordance with the law laid down by the Supreme Court in **Lata Singh v. State of U. P.** (2006) 5 SCC 475, and **Shakti Vahini v. Union of India & Ors**, AIR 2018 SC 1601, subject to verification by the official respondents, as to whether parties are major and the marriage has been solemnized in strict accordance with prevalent laws, and, if there is an FIR against any of the petitioner(s), the police may go ahead with the investigation under rules.

8. Needless to say that disposal of instant petition does not authenticate petitioners' marriage or their age/majority to enter into marriage, which, however, is otherwise subject to fulfilment of stipulations as envisaged under prevalent laws.

9. **Disposed of** along with connected application(s).

(M A CHOWDHARY)
JUDGE

JAMMU
08.11.2024
RamKrishan