

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No.S-619 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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For hearing of main case

17.7.2023

Mr. Ahmed Hussain Jokhio, advocate for the petitioner alongwith petitioner
Mr. Abdul Jalil Zubedi, AAG
Mr. Muntazir Mehdi, Additional PG
Baby Chandni is present in person
Hussain son of Muhmmad Uris
PI Sajjad Ali from CPO Legal Branch
SIP Mushtaq Hussain Panhwar, PS Thatta

Through this petition, the petitioner has prayed for a direction to the police officials to produce her daughter namely Baby Chandni daughter of Ashiq Ali Magsi allegedly detained by the private respondents. Petitioner also seeks the safe custody of the detenue to be kept in Dar-ul-Aman or in alternate her custody may be handed over to the petitioner-mother.

2. SHO PS Thatta has produced alleged detainee Mst. Chandni before this Court and her statement has been recorded wherein she has stated that she being sui juris, without any coercion or force has contracted marriage with Hussain son of Muhammad Uris Gandro on 20.6.2023 and she is performing her marital obligations and living with her husband on her consent. She further submitted that being antagonized upon their marriage, the petitioner and other relatives are causing threats to her and her husband. Her statement and Nikahnama have been placed on record.

3. At the outset, learned counsel for the petitioner submits that Baby Chandni daughter of Ashiq Ali Magsi is a minor and aged about 14/15 years as per birth certificate issued by Municipal Committee Thatta, therefore, her marriage with Hussain son of Muhammad Uris Gandro is illegal, however, he insisted on disposal of this petition in the terms that petitioner intends to challenge the vires of Nikahnama dated 20.6.2023 before the competent Court of law.

4. I have heard the learned counsel for the parties as well as alleged detainee Mst. Chandni on the subject issue and perused the record with their assistance.

5. Primarily the purpose of filing this petition has been served as the alleged detainee has been produced before this Court and has stated in categorical terms that she is residing with her husband and no one has

illegally detained or abducted her and she wants to go with her husband. Because of such a statement, the application of the petitioner before the learned Sessions Judge Thatta has been disposed of vide order dated 19.6.2023.

6. Since the alleged detenu simply seeks protection against the police officials, and her parents who allegedly are extending threats of life to her and her husband, learned AAG has candidly agreed that no harassment shall be caused to the alleged detenu; because of such statement, the petitioner is ready and willing to seek disposal of the matter subject to the aforesaid ascertains made by the learned counsel.

7. Primarily, this is a free and democratic country, and once a person becomes 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 they can cutoff social relations with the son or daughter, but they cannot give threats or commit or instigate for acts of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage. I, therefore, direct that the administration/police authorities will see, if any boy or girl who being major undergoes inter-caste or inter-religious marriage with a woman or man who is major, the couple is neither 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 will be taken against such person(s) as provided by law. However, the above observation is without prejudice to the legal rights of the parties, if any, pending before the competent Court of law; so far as the issue of underage if any is concerned the same shall be taken care of by the competent forum under the law.

8. In view of the above and with the consent of learned AAG, the captioned petition is disposed of with the direction that the married couples are at liberty to live together and no person shall be permitted to interfere in their peaceful living. In case, any disturbance is caused to them, they shall approach the concerned Senior Superintendent of Police or Superintendent of Police with a copy of this order, who shall provide immediate protection to them. So far as the issues of underage marriage and other ancillary matters are concerned the same shall be looked into by the concerned Court, if approached by the aggrieved party.

9. The captioned petition stands disposed of in the above terms.

JUDGE