

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constitution Petition No. D - 1013 of 2024
(Mst. Shaiza and another Vs. SHO PS Tharushah & others)

Date of hearing	Order with signature of Judge
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Hearing of case (Priority)

1. For orders on office objection at flag 'A'
2. For hearing of CMA No.3957/2024 (S/A)
3. For hearing of main case

Date of hearing and Order 30-07-2024

Mr. Nadir Hussain M. Abro, Advocate for the petitioners
Mr. Imran Mobeen Khan, Assistant PG for the State.

Mr. Ghulam Abbas Kuber, Assistant AG Sindh along with
Investigating Officer, Inspector Abdul Majid Dehraj, PS
Tharushah, Naushahro Feroze.

Mr. Mansoor Hussain Maitlo, Advocate for respondent No.4
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ADNAN-UL-KARIM MEMON, J: Petitioners Mst. Shazia and Shafi Muhammad have raised their voice of concern that they are under threat at the hands of parents of petitioner No.1; therefore, they have approached this Court with the narration that the petitioner No.1 has contracted marriage with petitioner No.2 Shafi Muhammad with her consent; she further submits that she has neither been kidnapped nor enticed away by the petitioner No.2; she further submits that her Ex-husband Khadim Hussain, who is respondent No. 4 has lodged FIR No. 120/2024 for offence under section 496-A, 452, 504, 34 PPC at Police Station Naushahro Feroze which FIR is false and fabricated one; she prays for quashment of the FIR.

2. Learned counsel for the petitioners has submitted that this Court vide order dated 05-07-2024 directed the SSP Naushahro Feroze to provide protection to the petitioners; however, the brother of the petitioner No.1 unlawfully detained them and snatched their valuables, such report was submitted to the SSP, however, no action has been taken against the petitioner No. 1 and his accomplices.

3. Investigating Officer present in Court has recorded the statement of the petitioner No.1 with the narration that she has neither been kidnapped nor abducted by the petitioner No. 2 and her previous husband had lodged FIR against them, which needs to be quashed and now she wants to go with her parents.

4. Learned counsel for the respondent No. 4 has raised the question of the maintainability of this petition on the premise that the petitioners have contracted marriage in presence of earlier marriage with respondent No. 4; therefore, appropriate action is required to be taken. He prayed for dismissal of this petition.

5. The Police officials present in Court also submit that they will not cause any harassment to the petitioners. Respondents No. 4 & 5 are directed to furnish personal bond in the sum of Rs. 100,0000/- each with the Additional Registrar of this Court to the effect that they and their family will not cause harm to the petitioners more particularly petitioner No.1 Mst. Shazia.

6. We have heard learned counsel for the parties and perused the record with their assistance.

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 cut off 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. We, therefore, direct that the administration/police authorities will see, that if any boy or girl who is 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 marriage over marriage if any is concerned the same shall be taken care of by the competent forum under the law. Because of the above the captioned petition can be disposed of with the direction the petitioner No.1 is at liberty to live either with her husband or with her parents and no person shall be permitted to interfere in her peaceful living. In case, any disturbance is caused to the petitioner No.1, she shall approach the concerned Senior Superintendent of Police or Superintendent of Police with a copy of this order, who shall provide immediate protection to her. So far as the issues of marriage over marriage and other ancillary matters are concerned the same shall be looked into by the concerned Court if approached by the petitioners.

8. In view of the above, this petition having served its purpose is disposed of with a direction to the concerned police to provide legal protection to the petitioners as and when they approach for such protection, in the meanwhile no further action is required against the petitioner No.2 and no harassment shall be caused to the petitioners by the family of the private respondents at any cost. The investigating Officer is directed to submit his investigation report to the learned Magistrate for disposal in terms of the statement of the petitioner Mst. Shazia. The Magistrate shall pass a speaking order after hearing the parties and other ancillary issues, if any, shall be taken care of in the light of observation recorded hereinabove. The SSP concerned is directed to look into the allegation of the petitioner No.2 Shafi Muhammad and if a cognizable offence is made out, he shall act in accordance with law and he shall also ensure protection of the petitioner No.1, who seems to be under harassment at the hands of the private respondents.

Judge

Judge

