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SB - Not approved for reporting
Free will marriage

17/05/16
17/05

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IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Const: Petition No. 2016

2231

- 1. Mst. Shumaila D/O Haji Hussain Bux,
W/o Raz Ali
- 2. Raz Ali S/O Lal Bux,
R/O at present Rohri,
Permanently R/O Ward No.11,
Muhalla, Noonari, Talka Mehrabpur
District Naushero Feroze.

. Petitioners

V E R S U S

- 1). Province of Sindh
Through Secretary
Home Department,
Sindh Secretariat Karachi.
- 2). Senior Superintendent of Police
(SSP) District Naushero Feroze.
- 3). Senior Superintendent of Police
(SSP) District Sukkur.
- 4). Station House Officer (S.H.O) ✓
Police Station Mehrabpur.
- 5). Station House Officer (S.H.O) ✓
Police Station Rohri.
- ✓ 6). Fateh Pirzado,
- ✗ 7). Inayat Hesbani,
- ✓ 8). Hussain Bux Pirzado,
- ✗ 9). Ali Nawaz Pirzado,
R/O Ward No.11, Muhalla, Noonari,
Talka Mehrabpur
District Naushero Feroze.

. Respondents

17/5/16
DISPATCHER
Office of the
Addl: Advocate General Sindh
Sindh High Court Building
Sukkur.

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CONSTITUTIONAL PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN
1973.

That the petitioners named above most respectfully submit as under:-

1. That, the Petitioners are law abiding citizen of Pakistan and residents of above captioned address under the jurisdiction of this Honorable Court, as such their rights liberty and other privileges are guaranteed by the constitution of Islamic Republic of Pakistan 1973.

2. That petitioner NO.1 being sui-juries having age about 20 years, and she is well known from her constitutional rights guaranteed by the constitution of Islamic Republic of Pakistan, 1973.

3. That the parents of petitioner No.1 are greedy persons they want to marry her with an stranger and whom the petitioner No.1 does not, like, therefore, the petitioner No.1 left her parents house simply in three cloths, and contracted married with petitioner NO.2 on 11-05-2016, through her own sweet free will and according to Shariat-e-Muhammadi and such Nikahnama was and Free will Affidavit were Sworn by petitioner No:1.

(copy of Nikahnama & Free will Affidavit are attached here with as annexure "A & A-1").

4. That when the private respondents came to know about the marriage of the petitioners, they became annoyed on the marriage of petitioners and they approached to respondent NO.4 and asked him for registering the case against the petitioner No: 2 and his other family members and near relatives and to

2016-03-28/16 (1)

7th FEBRUARY 2016
28/5

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IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constitution: Pet: No:- 2475 of 2016

Raaz Ali S/O Lal Bux
Muslim, adult, by caste Noonari.
R/O Muhalla Noonari Ward No-2 Mehrabpur City,
Taluka Mehrabpur District Naushero Feroze.

VERSUS

1. Province of Sindh through Secretary Home Department,
Sindh Secretariat Karachi.
2. Senior Superintendent of Police Noshero Feroze.
3. DSP Halani, Taluka Halani District Noshero Feroze.
4. S.H.O P.S Mehrabpur, Taluka Mehrabpur
District Naushero Feroze.

5. Abdul Fatah

6. Ali Nawaz

7. Sohail

8. Amjad, all four sons of Haji Hussain Bux

9. Haji Hussain Bux S/O Not known,
all private respondents No. 5 to 9 are by caste Noonari
R/O Muhalla Noonari Ward No-11 Mehrabpur City, Taluka Mehrabpur
District Naushero Feroze.

~~Abdul Fatah~~
Caste & follow.

Father

Detainee :- Mst. Shumaila D/O Haji Hussain Bux, W/O Raaz Ali/ Petitioner

CONSTITUTIONAL PETITION U/A 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF THE
PAKISTAN, 1973.

The Petitioner above-named humbly and respectfully
begs to submit as under:-

1. That the Petitioner is Law abiding Citizen, as such is
entitled for protection under the law and constitution.

PATCHER
Office of the
Advocate General Sindh
High Court Building
Sukkur

(45) (3) (660)

2. That the petitioner have contracted free will marriage with detainee namely Mst. Shumaila on 11-05-2016 against wish and will of her family members/ Respondents No.5 to 9. (P/S Copies of Nikkahnama and Free will affidavit attached as Annexure A)
3. That thereafter he Petitioner along with his wife/ datanee namely Mst: Shumaila filed a Constitutional Petition No:- S- 2231 of 2016 before this Honourable Court for protection against the Private respondents No.5 to 9, same is pending before this Honourable Court, on that petition this Honourable Court passed Order and directed official Respondents to provide protection to both the Petitioners specially against the private respondents strictly in accordance with law. (P/S copy of dated:- 17-05-2016 is attached herewith as Annexure B.)
4. That on 24-05-2016 at about 05 P.M the Petitioner along with detainee namely Mst. Shumaila were present at home, the private respondents came there and asked the petitioner that we have forgiven you and do not want to carry on the dispute, whatever have been done should be forget. The Petitioner and his wife have patched up with private respondents No.5 to 9.
5. That on 25-05-2016 at about 10 am the private respondents No.5 to 9 again came at the house of petitioner and seeking permission for take away his wife Mst. Shumaila for meeting with her mother and sisters, the petitioner allowed them, thereafter the private respondents No.5 to 9 have

(46)

(68)

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constt. Petition No.S-2231 of 2016

Constt. Petition No.S-2475 of 2016

Date

Order with signature of Judge

For katcha peshi

24-5-2016

Mr. Sunder Khan Chachar Advocate for petitioner
Mr. Iflikhar Ali Arain Advocate for respondent No.5
Mr. Abdul Sattar G.Luhrani for respondent No.9
Mr. Agha Ahter Hussain Pathan AAG

ORDER

Learned Karim Khan Agha, J. By CP No.S-2231/2016 the petitioners (Mst. Shumaila and Raz Ali) approached this court contending interalia that they had entered into a free will marriage and were living happily together. They contended that respondents No.6 to 9 have become annoyed about their marriage and have been issuing threats of dire consequences to them. Petitioner Mst. Shumaila has serious apprehension of murder at the hands of private respondents. This court by order dated 17.5.2016 directed respondents No.3 S.P.F. Naushahiro Feroze, respondent No.4 SHO Police Station Murratpur and respondent No.5 SHO Police Station Rohri to provide protection to both the petitioners, specially against respondents No.6 to 9 in accordance with law. The copy of this order was transmitted to Chief respondents No.2, 4 and 5 for information and strict compliance. At the time of the order Mst. Shumaila was present in court, however, approximately after four days of the order of this court her father and other relatives took her away from her husband. Her husband requested the father and other relatives of Mst. Shumaila to return his wife, however they refused. It has been observed by the court that the police completely failed to provide protection to the petitioners including Mst. Shumaila pursuant to its order dated 17.5.2016. On

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(47) (662)

... of the father of Mst. Shumaila to return his wife the petitioner filed a writ petition before this court bearing CP No.2475/2016 whereby he requested to this court to issue writs by directing respondents No. 2 to 4 to recover detinue (Mst. Shumaila) from respondents No.5 to 9 and to produce her before this court and after recording her statement set her at liberty. This court by order dated 31.5.2016 ordered SSP Naushahro Feroze to issue direction for recovery and production of alleged detinue Mst. Shumaila and produce her before the court. Its order was not complied with. As an indulgence SSP Naushahro Feroze was again directed to recover Mst. Shumaila from the custody of respondents and produce her before this court through any responsible officer on the next date without fail. Copy of this order was transmitted to SSP Naushahro Feroze through TCS as well as by fax for information and compliance.

Today father of Mst. Shumaila on the request of official respondents have produced Mst. Shumaila in court. Till today she has been residing with her father and other relatives who have taken her away from her husband. This means in effect that Mst. Shumaila has been under the custody of her father for approximately four weeks despite this court's order to produce her. Today DSP Mehrabpur Muhammad Umer, SIP/SHO PS Mehrabpur, Sub-Inspector Ke'ochi and ASI Subdar Ali of PS Rohri are present in court. Mr. Abdul Wahid Sheikh Advocate for respondent No.9 who is father of Mst. Shumaila has submitted a statement whereby he produced true copy of Family suit No.43/2016 Re-Mst. Shumaila v/s Raz Ali and copy of case diary whereby Mst. Shumaila has sought dissolution of her marriage with Raz Ali by the learned Family Judge Naushah Feroze. In my view since this family suit was filed on 11.5.2016 after filing of the CP No.S2231/2016 and CP No.2475/2016 when Mst. Shumaila was in custody of her father, the best way to resolve this dispute and determine the validity of the family suit filed by Mst. Shumaila is that the statement of Mst. Shumaila be recorded to determine whether she has

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... into a free will marriage with Raz Ali and whether she wants to
 dissolve that marriage or wishes to remain married with Raz Ali. Learned state
 counsel counsel for petitioner and counsel for father are in agreement with
 this approach. Accordingly statement of Mst. Shumaila was recorded on oath
 in which she stated that she is making this statement of her own free will and
 without any kind of pressure or duress. She had entered into free will marriage
 on 15.5.2018 with Raz Ali who is present in court and she recognizes him. She
 is happily married with Raz Ali and she wishes to remain married to him. Her
 husband Raz Ali has tried to amicably resolve the issue with her father but
 without success. She confirms that she had filed suit for dissolution of
 marriage when she was in custody of her father, however, this suit for
 dissolution of marriage was made under pressure and she disowns it. She
 wishes to reside with her husband (Raz Ali) who is present in court. On leaving
 her father she wishes to live alone with her husband and not to go with her
 father or with any other family members. Despite her strong love with her
 father she apprehends that either her father or some other persons may cause
 harassment either to herself or her husband. Opportunity of cross-examination
 was given to counsel for the father of Mst. Shumaila, but he has not crossed

Under the facts and circumstances of this case and based mainly
 on the statement under oath of Mst. Shumaila, I am satisfied that Mst. Shumaila
 entered into free will marriage with her husband Raz Ali s/o Lal Bux
 (CNIC # 45305-0380021-7). The petitioners have concerns that they
 may be harassed or intimidated by Mst. Shumaila's father or close relatives, as
 a result of which Direct DSP Mehrabpur, and SHO Police Station Mehrabpur who are
 present in court to ensure protection to the petitioners who undertook to
 execute PR bond in the sum of Rs. 20,000/- each before Additional Registrar of this court not to harass or
 interfere with the petitioners in any way. Haji Hussain Bux, Fateh Pirzodo and

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Muhammad Tariq are present in court today and shall execute PR bond during course of the day, while others shall execute their bonds within seven days of the order.

CP No.S-2231/2016 and CPS-2475/2016 stand disposed of in the above terms. Copy of this order shall immediately be sent by Additional Registrar through Fax and TCS to family court Naushahro Feroze where family suit bearing No.83/2016 Mst.Shumail v/s Raz Ali is pending.


JUDGE

Sufian Khan/PA

(50)
6085

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

CP No.2231 of 2016

CP No.2475 of 2016

Dated 24.6.2016

STATEMENT

I, do hereby state on oath that my name is Mst.Shumaila d/o Haji Hussain Bux, presently residing at Mehrabpur town, District Naushahro Feroze.

To Court

I am making this statement of my own free will without any kind of pressure or duress. I had entered into free will marriage with Raz Ali who is present in court, on 11.5.2016. I am happily married with Raz Ali and I wish to remain married to him. My husband Raz Ali has tried to resolve matters with my father but without success. I had filed suit for dissolution of marriage when I was in the custody of my father, however, this suit for dissolution of marriage was made under pressure. I disown it and I wish to reside with my husband who is present and I have pointed out in court. On leaving this court I wish to live alone with my husband and not to go with my father or other family members. Despite my strong love with my father I apprehend that either my father or some other person may cause harassment either to myself or my husband and as such I seek protection. This statement has been read over to me in Sindhi and I confirm its contents.

XXX to learned counsel for father of Mst. Shumaila

No cross, though opportunity was given.

SRO & AC


JUDGE

Shumaila