

Court No. - 43

Case :- CRIMINAL MISC. WRIT PETITION No. - 16302 of 2020

Petitioner :- Nadeem

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Syed Ahmed Faizan, Syed Farman Ahmad Naqvi (Senior Adv.), Zaheer Asghar

Counsel for Respondent :- G.A.

Hon'ble Pankaj Naqvi, J.

Hon'ble Vivek Agarwal, J.

Connect with Writ (PIL) Nos. 1756 of 2020 and 1757 of 2020.

Heard Syed Farman Ahmad Naqvi, learned Senior Advocate assisted by Syed Ahmed Faizan for the petitioner and Ms. Manju Thakur, learned AGA.

Petitioner has filed this petition seeking a prayer to issue a writ of certiorari quashing the impugned First Information Report of Case Crime No.0321 of 2020 registered at Police Station-Mansoorpur, District-Muzaffar Nagar, under Sections 504, 506 and 120-B IPC and Section 3/5 of the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance 2020 (U.P. Ordinance No.21 of 2020) lodged by respondent no.7.

Victim is the wife of the informant and mother of two children. Allegation against the petitioner is that, he is known to the informant who often used to visit his house, and taking undue advantage of acquaintance with the wife of the informant, is attempting to persuade her to change her religion so that he may marry her, for which purpose petitioner purchased a mobile-phone and gifted it to the wife of the informant.

Learned Senior Counsel for the petitioner submits that, in so far, validity of the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance 2020 (U.P. Ordinance No.21

of 2020) is concerned, same is subject matter of challenge in Writ (PIL) Nos.1756 of 2020 and 1757 of 2020, but the present case, is in regard to upholding the right of privacy as a basic fundamental right covered by Part-III of the Constitution.

It is submitted that FIR is based on mere suspicion and there is no material to substantiate the contentions raised in the FIR.

We have perused the order passed by the Hon'ble Division Bench in PIL-1756 of 2020, whereby case has been listed on 07.01.2021 to enable the State to file counter affidavit to the petition, and case is likely to be heard finally on 07.01.2021.

Article 25 provides that all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion, subject to public order, morality and health and to the other provisions of Part-III of the Constitution.

There is no material before us that any force or coercive process is being adopted by the petitioner to convert wife of the informant.

Victim is admittedly an adult who understands her well being. She as well as the petitioner have a fundamental right to privacy and being grown up adults who are aware of the consequences of their alleged relationship. Right to privacy has been upheld by the Hon'ble Supreme Court in **Justice K.S. Puttaswamy and others Vs. Union of India (UOI) and others** as reported in **(2017) 10 SCC 1**. In **Joseph Shine Vs. Union of India, (2019) 3 SCC 39**, issue of right to privacy has been held to depend on the exercise of autonomy and agency by individuals. Present is a case where all the allegations are prima facie based on suspicion.

Matter requires consideration.

Learned A.G.A has accepted notice on behalf of Respondent Nos.1 to 6.

Issue notice to Respondent no.7.

All the respondents may file their counter affidavits within two weeks. Rejoinder affidavit, if any, may be filed within three days thereafter.

List on 7th January, 2021 before the appropriate Bench for analogous hearing with PIL-1756 of 2020.

Till the next date of listing no coercive measure shall be taken against the petitioner in connection with Case Crime No.0321 of 2020, under Sections 504, 506 and 120-B IPC and Section 3/5 of the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance 2020 (U.P. Ordinance No.21 of 2020) registered at Police Station-Mansoorpur, District-Muzaffar Nagar.

The party shall file a computer generated copy of this order downloaded from the official website of High Court Allahabad, self attested by the petitioner/s alongwith a self attested identity proof of the said person (s) (preferably Aadhar Card).

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

Order Date :- 18.12.2020

Ashutosh