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LATA SINGH

v.

STATE OF U.P. AND ANR.

JULY 7, 2006

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[ASHOK BHAN AND MARKANDEY KATJU, JJ.]

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*Abuse of the process of Law—Inter-caste marriage by major girl—Brothers of the girl assaulted and humiliated the family and harmed the property of the husband of the girl—Relatives of the husband arrested and detained in jail by the police on complaint from the brothers of the girl—On Intervention of Women Commission and National Human Rights Commission, final report by Police that no offence was committed by the accused—Committal of case by Magistrate for trial despite the final report and statement of the girl that she had married of her own free will—High Court, in petition for quashing the proceedings directed the accused to appear before trial court—Writ petition by the girl—Held: No offence was committed by any of the accused—The whole criminal case was an abuse of the process of the Court as well as administrative machinery—Direction to institute criminal proceedings against the brothers of the girl.*

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*Inter-caste marriage—Harassment of the couple—Cognizance taken by Supreme Court—Directions issued to administration—Constitution of India, 1950—Article 32.*

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**Petitioner married a person who was from a different caste than that of her, on her own will. At that time she was major. The brothers of petitioner lodged a missing person report as a result of which police arrested relatives of the husband of the petitioner. Brothers of petitioner also lodged a police report alleging kidnapping of the petitioner by her husband and his relatives due to which the relatives of her husband were arrested and detained in Lucknow jail. Her brothers assaulted, humiliated and harmed the entire family of her husband and their properties. Their properties including the house and agricultural lands and shops were forcibly taken over by the brothers of the petitioner and the lives of the petitioner and her husband were in threat. Therefore, she was staying in hiding. On intervention of Rajasthan Women Commission and National Human Rights Commission, police submitted a final report mentioning**

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therein that no offence was committed by any of the accused persons and consequently the accused were enlarged on bail by the Sessions Court. A protest petition was filed against the final report alleging that the petitioner was not mentally fit. After her medical examination, she was found to be mentally fit. Thereafter Magistrate recorded the statement of the petitioner u/s. 164 Cr.P.C. wherein despite her statement that she had married her husband of her own free will, committal order was passed ignoring the fact that police had already filed a final report. Again non-bailable warrants were issued against the accused. In the petition filed by the accused u/s. 482 Cr.P.C. , accused were directed to appear before the trial Court and that it would scrutinize whether the accused committed any offence or not.

Petitioner filed the present Writ Petition praying for issuing a writ of *certiorari* and/or *mandamus* for quashing the Sessions Trial.

Allowing the writ petition, the Court

HELD: 1. There is no dispute that the petitioner is a major and was at all relevant times a major. Hence she is free to marry anyone she likes or live with anyone she likes. There is no bar to an inter-caste marriage under the Hindu Marriage Act or any other Law. No offence was committed by any of the accused and the whole criminal case in question is an abuse of the process of the Court as well as of the administrative machinery at the instance of the petitioner's brothers who were only furious because the petitioner married outside her caste. Instead of taking action against the petitioner's brothers for their unlawful and high-handed acts, the police has instead proceeded against the petitioner's husband and his relatives. In view of the allegations in the petition, criminal proceedings shall be instituted forthwith by the concerned authorities against the petitioner's brothers and others involved in accordance with law.

[355-B-D; 356-F-G]

2. Since several such instances are coming to knowledge of the Court of harassment, threats and violence against young men and women who marry outside their caste, the administration/police authorities throughout the country are directed to see to it that if any boy or girl who is a major undergoes inter-caste or inter-religious marriage with a woman or man who is a major, the couple are not harassed by any one nor subjected to threats or acts of violence, and any one who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to

**A task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law. [355-E; 356-A-C]**

CRIMINAL ORIGINAL JURISDICTION : Writ Petition (Criminal)  
No. 208 of 2004

**B** (Under Article 32 of the Constitution of India.).

Sakesh Kumar, Yogmaya Agnihotri and Rameshwar Prasad Goyal for the Appellant.

**C** Reena Singh for Jatinder Kumar Bhatia for the Respondents.

The Judgment of the Court was delivered by

**MARKANDEY KATJU, J.** This writ petition under Article 32 of the Constitution of India has been filed with a prayer for issuing a writ of *certiorari* and/or *mandamus* for quashing the Sessions Trial No. 1201 of 2001 under sections 366 and 368 of the Indian Penal Code arising out of FIR No. 336 of 2000 registered at Police Station Sarojini Nagar, Lucknow and pending in the Fast Track Court V, Lucknow.

**E** The facts of the case are as under:

The petitioner is a young woman now aged about 27 years who is a graduate and at the relevant time was pursuing her Masters course in Hindi in the Lucknow University. Due to the sudden death of her parents she started living with her brother Ajay Pratap Singh at LDA Colony, Kanpur Road, Lucknow, where she did her intermediate in 1997 and graduation in 2000.

**G** It is alleged by the petitioner that on 2.11.2000 she left her brother's house of her own free will and got married at Arya Samaj Mandir, Delhi to one Brahma Nand Gupta who has business in Delhi and other places and they have a child out of this wedlock.

Thereafter on 4.11.2000, the petitioner's brother lodged a missing person report at Sarojini Nagar Police Station, Lucknow and consequently the police arrested two sisters of the petitioner's husband along with the husband of one of the sisters and the cousin of the petitioner's husband. The persons arrested **H** were Mamta Gupta, Sangita Gupta (sisters of Brahma Nand Gupta), as well

as Rakesh Gupta (husband of Mamta Gupta) and Kallu Gupta cousin of the petitioner's husband. Mamta was in jail with her one month old child. A

It is further alleged that the petitioner's brothers Ajay Pratap Singh, Shashi Pratap Singh and Anand Pratap Singh were furious because the petitioner underwent an inter-caste marriage, and hence they went to the petitioner's husband's paternal residence and vehemently beat up her husband's mother and uncle, threw the luggage, furniture, utensils, etc. from the house and locked it with their lock. One brother of the petitioner's husband was allegedly locked in a room by the petitioner's brothers for four or five days without meals and water. The petitioner's brothers also allegedly cut away the harvest crops of the agricultural field of the petitioner's husband and sold it, and they also took forcible possession of the field. They also lodged a false police report alleging kidnapping of the petitioner against her husband and his relatives at Police Station Sarojini Nagar, Lucknow, due to which the sisters of the petitioner's husband, and the husband of one of the sisters, were arrested and detained in Lucknow jail. The petitioner's brothers also illegally took possession of the shop of the petitioner's husband. The petitioner's husband has a shop at Badan Singh Market, Rangpuri in the name of Gupta Helmet Shop whose possession was forcibly taken over by her brothers. B C D

It is further alleged that the petitioner's brothers are threatening to kill the petitioner's husband and his relatives, and kidnap and kill her also. The Gupta family members are afraid of going to Lucknow out of fear of violence by the petitioner's brothers, who are of a criminal bent. E

It is alleged that the petitioner's husband and relatives have been falsely framed by her brothers Shashi Pratap Singh, Ajay Pratap Singh and Anand Pratap Singh who were furious because of the inter-caste marriage of the petitioner with Bramha Nand Gupta. Mamta Gupta, Rakesh Gupta and Sangita Gupta were arrested on 17.12.2000, whereas Kallu Gupta was arrested on 02.12.2000. It is alleged that the three relatives of the petitioner's husband were not granted bail for a long time and their lives got ruined though there was no case against them that they instigated the petitioner to get married to Bramha Nand Gupta. It is also alleged that the petitioner ran from pillar to post to save her husband and relatives from harassment and she then approached the Rajasthan Women Commission, Jaipur, as she was staying in Jaipur almost in hiding apprehending danger to her and her husband's life. The Commission recorded her statement on 13.3.2001 and the same was forwarded to the Superintendent of Police (City), Lucknow for necessary F G H

A action. The President of the Rajasthan State Women Commission also wrote a letter to the National Human Rights Commission on 13.3.2001 requesting the Commission and the Chief Secretary, Government of Uttar Pradesh, to intervene in the matter.

B A final report was submitted by the SHO, Police Station Sarojini Nagar, Lucknow before the learned Judicial Magistrate inter-alia mentioning that no offence was committed by any of the accused persons and consequently the learned Sessions Judge, Lucknow enlarged the accused on bail on furnishing a personal bond on 16.5.2001 by observing that neither was there any offence nor were the accused involved in any offence. The Superintendent of Police, C Lucknow informed the National Human Rights Commission that all the accused persons have been released on bail on 17.5.2001.

Thereafter the Investigating Officer recorded the statement of the petitioner Lata Gupta @ Lata Singh on 28.5.2001 and for this purpose armed security was provided to her. The learned Chief Judicial Magistrate, Lucknow D recorded the statement of the petitioner under section 164 Cr.P.C. on 29.5.2001. In that statement the petitioner stated that she married Bramha Nand Gupta of her own free will. Despite this statement, the learned Chief Judicial Magistrate, Lucknow passed the committal order on 5.10.2001 ignoring the fact that the Police had already filed a final report in the matter.

E It appears that a protest petition was filed against the final report of the Police alleging that the petitioner was not mentally fit. However, the petitioner was medically examined by the Board of Doctors of Psychiatric Centre, Jaipur, who have stated that the petitioner was not suffering from any type of mental illness.

F The Fast Track Court, Lucknow before whom the case was pending issued non-bailable warrants against all the four accused, and against the order of the Fast Track Court, the accused filed a petition under section 482 Cr.P.C. in the Allahabad High Court (Lucknow Bench) which was registered as Crl. Misc. No. 520/2003. The High Court directed the accused to appear G before the Sessions Judge who would himself scrutinize whether the accused committed any offence or not. The matter is still pending.

The petitioner alleged that she cannot visit Lucknow as she apprehends danger to her life and the lives of her husband and small child. She has further alleged that her brothers have assaulted, humiliated and irreparably H harmed the entire family members of her husband Bramha Nand Gupta and

their properties, and even the remote relatives were not spared and were threatened to be killed. Their properties including the house and agricultural lands and shops were forcibly taken over by the brothers of the petitioner and the lives of the petitioner and her husband are in constant danger as her brothers have been threatening them. A

We have considered the above facts and have heard learned counsel for the petitioner and the learned counsel for the State Government. B

This case reveals a shocking state of affairs. There is no dispute that the petitioner is a major and was at all relevant times a major. Hence she is free to marry anyone she likes or live with anyone she likes. There is no bar to an inter-caste marriage under the Hindu Marriage Act or any other law. Hence, we cannot see what offence was committed by the petitioner, her husband or her husband's relatives. C

We are of the opinion that no offence was committed by any of the accused and the whole criminal case in question is an abuse of the process of the Court as well as of the administrative machinery at the instance of the petitioner's brothers who were only furious because the petitioner married outside her caste. We are distressed to note that instead of taking action against the petitioner's brothers for their unlawful and high-handed acts (details of which have been set out above) the police has instead proceeded against the petitioner's husband and his relatives. D E

Since several such instances are coming to our knowledge of harassment, threats and violence against young men and women who marry outside their caste, we feel it necessary to make some general comments on the matter. The nation is passing through a crucial transitional period in our history, and this Court cannot remain silent in matters of great public concern, such as the present one. F

The caste system is a curse on the nation and the sooner it is destroyed the better. In fact, it is dividing the nation at a time when we have to be united to face the challenges before the nation unitedly. Hence, inter-caste marriages are in fact in the national interest as they will result in destroying the caste system. However, disturbing news are coming from several parts of the country that young men and women who undergo inter-caste marriage, are threatened with violence, or violence is actually committed on them. In our opinion, such acts of violence or threats or harassment are wholly illegal and those who commit them must be severely punished. This is a free and H

- A democratic country, and once a person becomes a 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 that they can cut off social relations with the son or the daughter, but they cannot give threats or commit or instigate 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 throughout the country will see to it that if any boy or girl who is a major undergoes inter-caste or inter-religious marriage with a woman or man who is a major, the couple are not harassed by any one nor subjected to threats or acts of violence, and any one 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 is taken against such persons as provided by law.

- We sometimes hear of 'honour' killings of such persons who undergo inter-caste or inter-religious marriage of their own free will. There is nothing honourable in such killings, and in fact they are nothing but barbaric and shameful acts of murder committed by brutal, feudal minded persons who deserve harsh punishment. Only in this way can we stamp out such acts of barbarism.

- In the circumstances, the writ petition is allowed. The proceedings in Sessions Trial No. 1201/2001 titled *State of U.P. v. Sangita Gupta & Ors.*, arising out of FIR No. 336/2000 registered at Police Station Sarojini Nagar, Lucknow and pending in the Fast Track Court V, Lucknow are quashed. The warrants against the accused are also quashed. The police at all the concerned places should ensure that neither the petitioner nor her husband nor any relatives of the petitioner's husband are harassed or threatened nor any acts of violence are committed against them. If anybody is found doing so, he should be proceeded against sternly in accordance with law, by the authorities concerned.

- We further direct that in view of the allegations in the petition (set out above) criminal proceedings shall be instituted forthwith by the concerned authorities against the petitioner's brothers and others involved in accordance with law. Petition allowed.