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Jyoti Alias Jannat and anr. Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : Aug-11-2003

Reported in : 2003(4)AWC2844

Judge : M. Katju and ;R.S. Tripathi, JJ.

Acts : Constitution of India - Article 21; Indian Penal Code (IPC), 1860 - Sections 363 and 366; Indian Majority Act, 1875 - Sections 3

Appeal No. : C.M.W.P. No. 21541 of 2003

Appellant : Jyoti Alias Jannat and anr.

Respondent : State of U.P. and ors.

Advocate for Def. : N.S. Chahar, Adv. and ;S.C.

Advocate for Pet/Ap. : B.B. Paul, Adv.

Disposition : Writ petition allowed

Judgement :
ORDER

M. Katju and R. S. Tripathi, JJ.

1. Heard counsel for the parties.

2. The petitioners as well as the mother of petitioner No. 1 have appeared before us. Petitioner No. 1 is a major as is evident from her High School Certificate filed as Annexure-2 to the writ petition, which shows that her date of birth is 20.7.1984. Thus, she is over 19 year of age. According to the provisions of the Indian Majority Act, 1875, a person who is 18 years of age is major vide Section 3 of the said Act. The law deems that a major understands his/her welfare. Hence a major can go wherever he/she likes and live with any body. This is a free, democratic and secular country. Hence, if a person is a major even parents cannot interfere with that individual.

3. The petitioners who appeared before us have stated that they are living with each other of their own free will. In the counter-affidavit which has been filed it has been stated that a First Information Report has been lodged under Sections 363 and 366, I.P.C. That may be so, but once a person becomes a major, that person cannot be restrained from going anywhere or living with any body. Individual liberty under Article 21 has the highest place in our Constitution.

4. Under the facts and circumstances of this case, the writ petition is allowed. A mandamus is issued to the respondents not to harass or threaten the petitioners and allow them to live peacefully with each other. The Senior Superintendent of Police, Agra and Superintendent of Police, Firozabad, will ensure compliance of this order.

5. The petitioners have stated that they need security to go from here to Firozabad as they have apprehension about their safety. The Court Officer of this Court will contact the local police for providing security to them at Allahabad and for their journey to Firozabad. Further, the petitioners shall be provided security at Firozabad, by the police authorities concerned, there.

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