

IN THE HIGH COURT OF JHARKHAND AT RANCHI

(Criminal Writ Jurisdiction)

W.P.(Cri.) No. 305/2020

IN THE MATTER OF:

**An Application under Article 226 of
the Constitution of India.**

AND

IN THE MATTER OF:

1. Kalyani Kumari
2. Md. Saddab

.....Petitioners

Versus

1. State of Jharkhand through Chief Secretary, Government of Jharkhand, 1st Floor, Project Building, P.O. & P.S Dhurwa, Ranchi.
2. State of Jharkhand through Principal Secretary, Home Department, Govt. of Jharkhand, Project Building, P.O. and P.S.-Dhurwa, Ranchi.

3. Senior Superintendent of Police, Ranchi, Office of Senior Superintendent of Police, Kutchery Chowk, Deputy Para, Ahirtoli, Ranchi, Jharkhand 834001
4. Officer in Charge of Sukhdeonagar (Pandra O.P) Police Station P.O & P.S. Sukhdeonagar, District- Ranchi Jharkhand.
5. Deputy Collector, Ranchi, Office Deputy Para, Ahirtoli Ranchi, Jharkhand 834001
6. Geeta Devi aged about 4 years W/o Jaiyeru Mahto R/o Bajra Bariatu, Sarveshwari Nagar Post + PS Pandra O.P, Ranchi, Jharkhand 834

.....Respondents

TO,

THE HON'BLE MR. JUSTICE DR. RAVI RANJAN, THE CHIEF JUSTICE OF THE HIGH COURT OF JHARKHAND, RANCHI AND HIS OTHER COMPANION JUDGES OF THE SAID HON'BLE COURT.

The humble writ petition on behalf of
the Petitioner above named;

MOST RESPECTFULLY SHEWETH:

1. That in the instant petition, the petitioner prays for issuance of an appropriate writ(s)/ order(s)/ direction(s) for following relief(s):-

a. For a writ in nature of mandamus commanding upon the Respondent/State to take the appropriate action and quash the F.I.R being Sukhdeonagar (Pandra O.P) PS case no. 335/2020 u/s 363/366/34 I.P.C.

And

b. For a writ in nature of mandamus commanding upon the Respondent/State to take the appropriate action and release the petitioner no.1 from Snehashray Nari Niketan, Kanke.

And

c. For a writ in nature of mandamus commanding upon the Respondent/State to take the appropriate action and hand over petitioner no. 1 to her lawful husband i.e petitioner no. 2.

And

d. For a writ in nature of mandamus commanding upon the Respondent/State to take the appropriate action and urgently provide protection to the inter-religion married couple i.e., petitioner no. 1 and petitioner no. 2.

And

e. For a writ in nature of mandamus commanding upon the Respondent/State to take the appropriate action and comply the order and directions given by the Supreme Court in **Lata Singh vs. State of U.P and Another (2006) 5 SCC 475 : (2006) 2 SCC (Cri) 478.**

And

f. For a writ in nature of mandamus commanding upon the Respondent/State to take no coercive step against the couple i.e., petitioner no. 1 and petitioner no. 2.

And

g. For a writ in nature of mandamus commanding upon the respondents to pay suitable litigation cost to the petitioner no. 1 and petitioner no. 2.

And

h. For further issuance of an appropriate writ(s)/ order(s)/ direction(s) as Your Lordships may deem fit and proper in the facts and circumstances of the case and in the interest of justice.

2. That it is most humbly stated and submitted that the present Writ petition is arising out of Sukhdeonagar (Pandra O.P) PS case no. 335/2020 dated 08-07-2020 u/s 363/366/34 I.P.C pending before the Learned Court of Shri Abhishek Prasad J.M.F.C III at District Court, Ranchi.

3. That it is most humbly stated and submitted that the petitioner no. 1 and petitioner no. 2 has not moved earlier before this Hon'ble Court for the same relief(s) as sought in the present writ petition.
4. That in the facts and circumstances of this case, the substantial questions of law which may inter-alia arise for the kind consideration by this Hon'ble Court are as follows:-
 - i. Whether in the light of Supreme Court's Constitution Bench directions in the case of **Lata Singh vs. State of U.P and Another (2006) 5 SCC 475 : (2006) 2 SCC (Cri) 478** the respondent/state is duty bound to file closure report in the Sukhdeonagar (Pandra O.P) PS case no. 335/2020 after the statement of the victim (petitioner) got recorder u/s 164 CrPC on 14-09-2020 itself and urgently provide protection to the newly wed couple i.e., petitioner no. 1 and petitioner no. 2.
 - ii. Whether the action of the respondent authorities not conducting a fair investigation and not expediting the same, is contrary to the provisions of Article 14 and 21 of the Constitution of India?
 - iii. Whether the concerned Police authority can be pressured upon by the family members of the petitioner no. 1 to delay the submission of the final form/case diary in the case, now that the statement of the

victim/petitioner no. 1 has been recorded in favour of the petitioner no. 2?

- iv. Whether all police officers with a vested interest like the investigating officer of this case, officer-in-charge and the other higher officers of the police department, can be expected to conduct a fair investigation?
- v. Whether the action of the respondent authorities is in violation of Constitutional mandate and other provisions of law?
- vi. Whether the petitioners being the citizen of India are entitled to the protection of law as guaranteed and mandated under the Constitution of India?

- 5. That it is most humbly stated and submitted that the petitioners are a citizen of India and as such are entitled to protection of their fundamental and other legal rights as enshrined in the Constitution of India.
- 6. That it is most humbly stated and submitted that the cause of action for filing this writ petition has arisen within the territorial jurisdiction of this Hon'ble High Court.
- 7. That it is most humbly stated and submitted that the petitioner no. 1 (25years) is an Accounts Hons. Graduate and is appearing for competitive exams and petitioner no. 2 (24years) has been a part of the Government Land Surveyor

in Gujarat and they both are the victims of the conservative approach of her family members and the society.

True copy of the AADHAR Card of the petitioner no. 1 and petitioner no. 2 is being annexed herewith and marked as **Annexure-1** forming part of this Writ.

8. That the brief facts of the case is as follows:

- i. That the petitioner no. 1 came in contact with petitioner no. 2 in the year 2007, when they were in 7th Standard in Devnand Nath Singh High School. And also that the petitioner no. 1's father had rented out a shop space to petitioner no. 2's uncle.
- ii. That the petitioner no. 1 and petitioner no. 2 had become very good friends after completing their Board exams in the year 2011, and had parted ways for their higher studies, but were still in constant contact.

- iii. That the petitioner no. 1's parents had started looking for a suitable groom for her as soon as the petitioner no. 1 had completed her 12th in Commerce Stream in the year 2013.
- iv. That the petitioner no. 1 had completed her Graduation in Accounts Hons in the year 2016, and has been appearing in various competitive exams since then, staying with her aunt in Ranchi till 2018. But because of the household chores, and her aunt's never ending taunts on not getting married, she was not able to give her 100 percent to her studies, whereafter the petitioner no. 1 herself had asked her father to take her back to her home in Chorea.
- v. That the petitioner no. 1 had on a number of occasions missed the qualifying marks in both Prelims and Mains Examinations conducted by Railways and SCC.
- vi. That the petitioner no. 1's parents had finalised her marriage against her wishes on 14-06-2020, during the Lockdown.
- vii. That on 07-07-2020 the petitioner no.1 had come to her aunt's house situated in Sarveshwari Nagar, Bajra, Bariatu, from Chorea, with all her certificates, under the pretext of going to the beauty parlour.

- viii. That on 08-07-2020 the petitioner no.1's aunt fell ill, and asked the petitioner no. 1 to go to the beauty parlour on her own.
- ix. That the petitioner no. 1, on stepping out from her aunt's house, straightaway called petitioner no. 2, and informed him that she has left from her home, and asked him to meet in Kutchery, where upon meeting each other they switched off their mobile phones.
- x. That the couple tried getting a bus, and finally boarded a bus which took them till Hazaribagh and from there to Kolkata.
- xi. That on reaching Kolkata on 09-07-2020 the couple tried finding a Pandit who could get them married, or even District Court where they could get married, but because of the Lockdown-Unlock all the religious places of worship were closed and the courts were also functioning online.
- xii. That finally on 18-07-2020 the couple got their marriage registered in the Qazi Office, of which a Nikaah Nama was also made.

True copy of the Marriage
Certificate being West Bengal
Form No. 1601 dated 18-07-

2020 is being annexed herewith
and marked as **Annexure-2**
forming part of this Writ.

- xiii. That a few days into the marriage, on enquiring, the couple found out that the petitioner no. 1's aunt had filed a case in the Sukhdeonagar (Pandra O.P) PS being case no. 335/2020 u/s 363/366/34 I.P.C. against the petitioner no. 2 and his two brothers Aabid and Chintu.
- xiv. That the couple immediately went to Arrah, Bihar to the petitioner no. 1's sasural, from where they came to Ranchi on 10-09-2020, and petitioner no. 1 surrendered before the Sukhdeonagar (Pandra O.P) PS, from where she was taken to Mahila Thana, where she was continuously being harassed by her own family members and relatives.
- xv. That on 14-09-2020, the petitioner no. 1 deposed her statement u/s 164 CrPC before the Learned Court of Miss Kavitanjali Toppo J.M 1st Class Ranchi District Court. Wherein the petitioner no. 1 clearly deposed that she had herself willingly eloped with petitioner no. 2 and got married, and now she wants to live with petitioner no. 2 and that there is a threat to their lives.

- xvi. That after getting the statement recorded, the petitioner no.1 was taken to “Snehashray Nari Niketan” Kanke, where she has been kept against her wishes till date.
- xvii. That even in the said shelter home, the petitioner no. 1’s parents visit on a daily basis, trying to pressurise her to go home with them. And not only this but even inside the shelter home she is continuously harassed by the women present there, who taunt her by calling her “jolhin” and purposefully do not include her in the group activities, all of which is affecting her peace of mind also.
- xviii. That a letter dated 23-10-2020 was addressed to the Senior Superintendent of Police, Ranchi, for taking action, in accordance with the directions given by the Supreme Court in the case of **Lata Singh vs. State of U.P and Another (2006) 5 SCC 475 : (2006) 2 SCC (Cri) 478.**
- xix. That a letter dated 28-10-2020 was forwarded by the Office of the Senior Superintendent of Police, Ranchi to Sukhdeonagar (Pandra O.P) PS Incharge being Letter No. 13989/28-10-2020 to take action, and a copy of the same was served to the Superintendent of Police, Nagar and to the Superintendent of Police Kotwali Police Station.

xx. That a letter being no. NN/2020-21/33 dated 17/10/20 was also sent to the Learned Court of Shri. Abhishek Prasad, J.M III Ranchi by the petitioner no. 1, in which she had asked the Learned Court to release her from Nari Niketan and let her start her married life with her husband i.e., petitioner no.2. Given the fact that she is 25 years old, and had herself eloped with petitioner no. 2, all of which has already been brought before the Learned Court on 14-09-2020 in her statement u/s 164 CrPC.

xxi. That the petitioner no. 1 has already filled the examination forms of C.G.L and Railway N.T.P.C, which is scheduled to be conducted on 15 December 2020, but is unable to prepare for her exams in the Snehashray Nari Niketan, Kanke where there is neither any reading material nor good internet facility.

9. That it is most humbly and respectfully stated and submitted that the petitioner no. 1 and petitioner no. 2 both are the victims of the society's conservative approach towards life, wherein even though they both are 25 years of age and adults who decided to get married and spend the rest of their lives together have been made victim and accused in a kidnapping case being Sukhdeonagar (Pandra O.P) case no. 335/2020 u/s 363/366/34 I.P.C. And despite all the steps taken by the petitioner no. 1, she is being kept in the Snehashray Nari Niketan,

situated in Kanke against her wishes, which is having adverse effects on her future prospects.

10. That it is most humbly and respectfully stated and submitted that there has been continuous effect of malpractice on the part of the authorities and the department of Police inasmuch the delay being caused and done is corrupted, biased and improper.

11. That it is most humbly and respectfully stated and submitted that in the fact and circumstances of this case the petitioners are very much entitled for the reliefs as prayed for in this petition.

12. That it is stated and submitted that the present case being Sukhdeonagar (Pandra O.P) PS case no. 335/2020 got registered u/s 363/366/34 I.P.C and is pending before the Learned Court of Shri. Abhishek Prasad J.M III, Ranchi. In connection with which the petitioner no. 1 had herself surrendered before the Sukhdeonagar (Pandra O.P) PS on 10-09-2020 and deposited her statement before the Learned Court on 14-09-2020. But still the Court is not taking any positive action, given the fact that now the case stands infructuous. Petitioner no. 2 has himself filed for the certified copies of the F.I.R as well as the statement of the victim u/s 164 CrPC on 11-11-2020, but has not been able to procure the same till date.

True copies of the Certified copy application filed on 11-11-2020 for the certified copies of the F.I.R and Statement of the victim (petitioner) are being annexed herewith and marked as **Annexure-3** forming part of this Writ.

13. That it is stated and submitted that the petitioner no. 1 is a career oriented person, and has applied for various competitive examinations, like C.G.L and Railway N.T.P.C etc., and the N.T.P.C examination is scheduled for December 15th 2020. And her stay in the Snehashray Nari Niketan is creating a hurdle in preparing for the same, as the petitioner no. 1 is continuously harassed and pressured by her relatives to go back to her paternal home, who come to visit her on a daily basis, against her wishes, and which affects her peace of mind. And petitioner no. 2 is also a very hard working person as he had started earning for a living straight after completing his 12th Board Examination in the year 2013.

14. That even in the “Snehashray Nari Niketan” petitioner no 1 does not have any peace of mind, as the other residents mock at her addressing her as a “jolhin”, and not only this but she is purposefully not included in the group activities, and whoever tries to befriend her, is immediately turned against her by the others.

15. That it is pertinent to mention here that the petitioners had known each other since 2007 when they were both studying in the 7th Standard in Devnand Nath Singh High School, Choreya. And they thought that until they achieve something in their lives they cannot get married with their parents approval, but times were such that, the petitioner no. 1’s parents had finalised her wedding with another person against her wishes on 14-06-2020, which compelled her to take such a big step, to elope and get married to petitioner no. 2.

True copy of the Pass
Certificates of the
Petitioners from Devnand
Nath Singh High School
Choreya affiliated to
Jharkhand Academic
Council in the year 2011

is being annexed herewith
and marked as
Annexure-4 forming part
of this Writ.

16. That the petitioner no. 1's paternal aunt and maternal uncle are the ones who have taken the matters into their own hands, and are managing everybody seeing that the couple does not get reunited.
17. That it is pertinent to mention here that it was the petitioner no. 1's aunt who got the F.I.R registered, and the same aunt used to taunt her every single day, when the petitioner no. 1 was living with her, that "she will never get married, as it is not in her stars, she is such a huge baggage for her family, not even qualifying any examinations".
18. That it is pertinent to mention here that the F.I.R reads that the petitioner no. 1's aunt had called up the petitioner no. 2's brothers Aabid and Chintu on their mobile phones, and who had misbehaved with her aunt using filthy language. But the aunt had never contacted the two brothers, and had managed to get their contact details from the petitioner no. 1's personal diary.
19. That it is pertinent to mention here that, petitioner no. 2's uncle who lives in Choreia and operates a rented shop, let out by the petitioner no. 1's father is

also being harassed and pressurised by the parents and relatives of the petitioner to not take any step, and let the petitioner no. 1 willingly get back to her paternal home, then they will withdraw the Kidnapping case being Sukhdeonagar (Pandra O.P) PS case no.335/2020 filed against his nephews.

20. That it is pertinent to mention here that because of all the management and pressure, the couple is being kept in the dark, and are not able to do anything, as there is also a no-coercive order in favour of petitioner no. 2 and his two brothers Aabid and Chintu in connection to Sukhdeonagar (Pandra O.P) PS case no. 335/2020, being ABP 1595/2020 filed on 14-09-2020 and first hearing conducted on 15-09-2020, which is still pending before the Learned Court of the Judicial Commissioner at Ranchi, due to which they are unable to act on anything, as any action on his part can easily be contorted and have an adverse effect.

21. That it is pertinent to mention here that the Petitioner no. 1 had sent a letter addressed to the Learned Court of Shri. Abhishek Prasad J.M III Ranchi being NN/2020-21/33 dated 17/10/20, stating clearly that she wants to be released from the Snehashray Nari Niketan, situated in Kanke and live with her in-laws and petitioner no. 2 and start her conjugal life. But still the Learned Court is not acting on the same.

22. That it is pertinent to mention here that the petitioner no. 1 had also addressed a letter/application to the Senior Superintendent of Police, Ranchi on 23-10-2020 for taking action, in accordance with the directions given by the Supreme Court in the case of **Lata Singh vs. State of U.P and Another (2006) 5 SCC 475 : (2006) 2 SCC (Cri) 478**. Wherein the petitioner no. 1 had also annexed the copy of the 1) Nikahnama of the petitioner with petitioner no. 2 dated 18-07-2020 2) Copy of the F.I.R being Sukhdeonagar (Pandra O.P) PS case no. 335/2020 dated 08-07-2020 3) Copy of statement of the petitioner deposited by her u/s 164 CrPC on 14-09-2020 4) True copy of the judgement **Lata Singh vs. State of U.P and Another (2006) 5 SCC 475** dated 07-07-2006 5) True copy of the order/judgement Naveen Kumar & Anr vs. State & Ors. 2020 SCC Online DEl 517 dated 13-04-2020 6) Copy of the Article “SC grants protection to newly married inter-caste couple” published in the Tribune dated 09-03-2020. Following which a letter dated 28-10-2020 was forwarded by the Office of the Senior Superintendent of Police, Ranchi to Sukhdeonagar (Pandra O.P) PS Incharge being Letter No. 13989/28-10-2020 to take action, and a copy of the same was served to the Superintendent of Police, Nagar and to the Superintendent of Police Kotwali Police Station. But till date no action has been taken.

True copy of the letter/application dated 23-10-2020 and letter no. 13989/28-10-2020 is being annexed herewith and marked as **Annexure-5** forming part of this Writ.

23. That it is pertinent to mention that in today's society intermingling between people from different castes is happening at different forums, be it for education, be it professionally. Thus it should not be a matter of grave consequence when marriage arrangements also involve such intermingling. The youth of today are quite receptive to the idea of inter-caste/ inter-religion marriage. Thus the real impediment is in altering the mind set of family elders. India has progressed significantly in terms of inter-caste marriages being on the rise. However this is still not embraced very well by people at large and we have a long way to go to rid our society of all prejudiced and preconceived notions, to widen our outlook.

24. That it has been stated in **Lata Singh Vs. State of U.P. 2006 Cr.L.J. 3312:**

“This is a free and 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.

True copy of the Judgment Lata
Singh vs. State of U.P & Anr
(2006) 5 SCC 475 : (2006) 2
SCC (Cri) 478 is being annexed
herewith and marked as

Annexure-6 forming part of
this Writ.

25. That it has been stated in **Bhagwan Das Vs. State (NCT of Delhi), (2011) 6 SCC 396:**

“28. Often young couples who fall in love have to seek shelter in the police lines or protection homes, to avoid the wrath of kangaroo courts. We have held in Lata Singh case that there is nothing “honourable” in “honour” killings, and they are nothing but barbaric and brutal murders by bigoted persons with feudal minds. In our opinion honour killings, for whatever reason, come within the category of the rarest of rare cases deserving death punishment. It is time to stamp out these barbaric, feudal practices which are a slur on our nation. This is necessary as a deterrent for such outrageous, uncivilised behavior. All persons who are planning to perpetrate “honour” killings should know that the gallows await them.

Let a copy of this judgment be sent to the Registrars General/ Registrars of all the High Courts who shall circulate the same to all the Judges of the Courts. The Registrars General/ Registrars of the High Courts will also circulate copies of the same to all the Sessions Judges/ Additional Sessions Judges in the States/Union Territories. Copies of the judgment

shall also be sent to all the Chief Secretaries/ Home Secretaries/ Directors General of Police of all States/ Union Territories in the country. The Home Secretaries and Directors General of Police will circulate the same to all SSPs/SPs in the States/Union Territories for information.”

26. That in a recent judgment rendered by the Supreme Court in **Shafin Jahan vs. Asokan K.M** after stating the law pertaining to writ of Habeas Corpus, this writ has been considered as “a great constitutional privilege” or “the first security of civil liberty”. The Court made the following pertinent observations: -

“27. Thus, the pivotal purpose of the said writ is to see that no one is deprived of his/her liberty without sanction of law. It is the primary duty of the State to see that the said right is not sullied in any manner whatsoever and its sanctity is not affected by any kind of subterfuge. The role of the Court is to see that the detenu is produced before it, find out about his/her independent choice and see to it that the person is released from illegal restraint. The issue will be a different one when the detention is not illegal. What is seminal is to remember that the song of liberty is sung with sincerity and the choice of an individual is appositely respected and conferred its esteemed status as the

Constitution guarantees. It is so as the expression of choice is a fundamental right under Articles 19 and 21 of the Constitution, if the said choice does not transgress any valid legal framework. Once that aspect is clear, the enquiry and determination have to come to an end.

28. In the instant case, the High Court, as is noticeable from the impugned verdict, has been erroneously guided by some kind of social phenomenon that was frescoed before it. The writ court has taken exception to the marriage of the respondent No. 9 herein with the appellant. It felt perturbed. As we see, there was nothing to be taken exception to. Initially, Hadiya had declined to go with her father and expressed her desire to stay with the respondent No. 7 before the High Court and in the first writ it had so directed. The adamant attitude of the father, possibly impelled by obsessive parental love, compelled him to knock at the doors of the High Court in another Habeas Corpus petition whereupon the High Court directed the production of Hadiya who appeared on the given date along with the appellant herein whom the High Court calls a stranger. But Hadiya would insist that she had entered into marriage with him. True it is, she had gone with the respondent No. 7 before the High Court but that does not mean and can never mean that she, as a major, could not enter into a marital

relationship. But, the High Court unwarrantably took exception to the same forgetting that parental love or concern cannot be allowed to fluster the right of choice of an adult in choosing a man to whom she gets married. And, that is where the error has crept in. The High Court should have, after an interaction as regards her choice, directed that she was free to go where she wished to.”

The Court also emphasised due importance to the right of choice of an adult person which the Constitution accords to an adult person as under:

“52. It is obligatory to state here that expression of choice in accord with law is acceptance of individual identity. Curtailment of that expression and the ultimate action emanating therefrom on the conceptual structuralism of obeisance to the societal will destroy the individualistic entity of a person. The social values and morals have their space but they are not above the constitutionally guaranteed freedom. The said freedom is both a constitutional and a human right. Deprivation of that freedom which is ingrained in choice on the plea of faith is impermissible. Faith of a person is intrinsic to his/her meaningful existence. To have the freedom of faith is essential to his/her autonomy; and it strengthens the core norms of the Constitution. Choosing a faith is the substratum of individuality and sans it, the right

of choice becomes a shadow. It has to be remembered that the realization of a right is more important than the conferment of the right. Such actualization indeed ostracises any kind of societal notoriety and keeps at bay the patriarchal supremacy. It is so because the individualistic faith and expression of choice are fundamental for the fructification of the right. Thus, we would like to call it indispensable preliminary condition.”

“53. Non-acceptance of her choice would simply mean creating discomfort to the constitutional right by a Constitutional Court which is meant to be the protector of fundamental rights. Such a situation cannot remotely be conceived. The duty of the Court is to uphold the right and not to abridge the sphere of the right unless there is a valid authority of law. Sans lawful sanction, the centripetal value of liberty should allow an individual to write his/her script. The individual signature is the insignia of the concept.”

“78. In a more recent decision of a three Judge Bench in **Soni Gerry vs. Gerry Douglas**, this Court dealt with a case where the daughter of the appellant and respondent, who was a major had expressed a desire to reside in Kuwait, where she was pursuing her education, with her father. This Court observed thus:

“9.....She has, without any hesitation, clearly stated that she intends to go back to Kuwait to pursue her career. In such a situation, we are of the considered opinion that as a major, she is entitled to exercise her choice and freedom and the Court cannot get into the aspect whether she has been forced by the father or not. There may be ample reasons on her behalf to go back to her father in Kuwait, but we are not concerned with her reasons. What she has stated before the Court, that alone matters and that is the heart of the reasoning for this Court, which keeps all controversies at bay.

10. It needs no special emphasis to state that attaining the age of majority in an individual's life has its own significance. She/He is entitled to make her/his choice. The courts cannot, as long as the choice remains, assume the role of parents' patriae. The daughter is entitled to enjoy her freedom as the law permits and the court should not assume the role of a super guardian being moved by any kind of sentiment of the mother or the egotism of the father. We say so without any reservation.”

True copy of the Judgement
Shafin Jahan vs. Asokan K.M &
Ors. (2018) 16 SCC 368 : (2019)

1 SCC (Civ) 446 : 2018 SCC
OnLine SC 343 is being
annexed herewith and marked as
Annexure-7 forming part of
this Writ.

27. That the Allahabad HC in the case **Salamat Ansari & Ors vs. State of U.P.
& Ors Cri. Mis. Writ Petition No- 11367 of 2020 decided on 11-11-2020**
held that:

“5. We do not see Priyanka Kharwar and Salamat as Hindu and Muslim, rather as two grown up individuals who out of their own free will and choice are living together peacefully and happily over a year. The Courts and the Constitutional Courts in particular are enjoined to uphold the life and liberty of an individual guaranteed under Article 21 of the Constitution of India. Right to live with a person of his/her choice irrespective of religion professed by them, is intrinsic to the right to life and personal liberty. Interference in a personal relationship, would constitute a serious encroachment into the right to freedom of choice of the two individuals. We fail to understand that if the law permits two persons even of the same sex to live together peacefully then neither any individual nor a family nor even State can have objection to

relationship of two major individuals who out of their own free will are living together. Decision of an individual who is of the age of majority, to live with an individual of his/her choice is strictly a right of an individual and when this right is infringed it would constitute breach of his/her fundamental right to life and personal liberty as it includes right to freedom of choice, to choose a partner and right to live with dignity as enshrined in Article 21 of the Constitution of India.”

“11. Right to choose a partner irrespective of caste, creed or religion, is inherited under right to life and personal liberty, an integral part of the Fundamental Right under Article 21 of the Constitution of India. The Apex Court in **KS Puttaswamy vs Union of India (2017) 10 SCC 1** while deciding the issue of right to privacy, held as under:-

“298. Privacy of the individual is an essential aspect of dignity. Dignity has both an intrinsic and instrumental value. As an intrinsic value, human dignity is an entitlement or a constitutionally protected interest in itself. In its instrumental facet, dignity and freedom are inseparably inter-twined, each being a facilitative tool to achieve the other. The ability of the individual to protect a zone of privacy enables the realization of the full value of life and liberty. Liberty has a broader meaning

of which privacy is a subset. All liberties may not be exercised in privacy. Yet others can be fulfilled only within a private space. Privacy enables the individual to retain the autonomy of the body and mind. The autonomy of the individual is the ability to make decisions on vital matters of concern to life. Privacy has not been couched as an independent fundamental right. But that does not detract from the constitutional protection afforded to it, once the true nature of privacy and its relationship with those fundamental rights which are expressly protected is understood. Privacy lies across the spectrum of protected freedoms. The guarantee of equality is a guarantee against arbitrary state action. It prevents the state from discriminating between individuals. The destruction by the state of a sanctified personal space whether of the body or of the mind is violative of the guarantee against arbitrary state action. Privacy of the body entitles an individual to the integrity of the physical aspects of personhood. The intersection between one's mental integrity and privacy entitles the individual to freedom of thought, the freedom to believe in what is right, and the freedom of self-determination. When these guarantees intersect with gender, they create a private space

which protects all those elements which are crucial to gender identity. The family, marriage, procreation and sexual orientation are all integral to the dignity of the individual. Above all, the privacy of the individual recognises an inviolable right to determine how freedom shall be exercised. An individual may perceive that the best form of expression is to remain silent. Silence postulates a realm of privacy. An artist finds reflection of the soul in a creative endeavour. A writer expresses the outcome of a process of thought. A musician contemplates upon notes which musically lead to silence. The silence, which lies within, reflects on the ability to choose how to convey thoughts and ideas or interact with others. These are crucial aspects of personhood. The freedoms Under Article 19 can be fulfilled where the individual is entitled to decide upon his or her preferences. Read in conjunction with Article 21, liberty enables the individual to have a choice of preferences on various facets of life including what and how one will eat, the way one will dress, the faith one will espouse and a myriad other matters on which autonomy and self-determination require a choice to be made within the privacy of the mind. The constitutional right to

the freedom of religion Under Article 25 has implicit within it the ability to choose a faith and the freedom to express or not express those choices to the world. These are some illustrations of the manner in which privacy facilitates freedom and is intrinsic to the exercise of liberty. The Constitution does not contain a separate Article telling us that privacy has been declared to be a fundamental right. Nor have we tagged the provisions of Part III with an alpha suffixed right of privacy: this is not an act of judicial redrafting. Dignity cannot exist without privacy. Both reside within the inalienable values of life, liberty and freedom which the Constitution has recognised. Privacy is the ultimate expression of the sanctity of the individual. It is a constitutional value which straddles across the spectrum of fundamental rights and protects for the individual a zone of choice and self-determination.

299. Privacy represents the core of the human personality and recognises the ability of each individual to make choices and to take decisions governing matters intimate and personal. Yet, it is necessary to acknowledge that individuals live in communities and work in communities. Their personalities affect and, in turn,

are shaped by their social environment. The individual is not a hermit. The lives of individuals are as much a social phenomenon. In their interactions with others, individuals are constantly engaged in behavioural patterns and in relationships impacting on the rest of society. Equally, the life of the individual is being consistently shaped by cultural and social values imbibed from living in the community.

323. Privacy includes at its core the preservation of personal intimacies, the sanctity of family life, marriage, procreation, the home and sexual orientation. Privacy also connotes a right to be left alone. Privacy safeguards individual autonomy and recognises the ability of the individual to control vital aspects of his or her life. Personal choices governing a way of life are intrinsic to privacy. Privacy protects heterogeneity and recognises the plurality and diversity of our culture. While the legitimate expectation of privacy may vary from the intimate zone to the private zone and from the private to the public arenas, it is important to underscore that privacy is not lost or surrendered merely because the individual is in a public place.

Privacy attaches to the person since it is an essential facet of the dignity of the human being;

“14. To disregard the choice of a person who is of the age of majority would not only be antithetic to the freedom of choice of a grown up individual but would also be a threat to the concept of unity in diversity. An individual on attaining majority is statutorily conferred a right to choose a partner, which if denied would not only affect his/her human right but also his/her right to life and personal liberty, guaranteed under Article 21 of the Constitution of India. We say so for the reason that irrespective of the conversion being under clout, the mere fact that the couple was living together, the alleged relationship can very well be classified as a relationship in the nature of marriage distinct from the relationship arising out of marriage, in view of the provisions of Protection of Women from Domestic Violence Act, 2005.

True copy of the article “Right To Choose A Partner Of Choice A Fundamental Right”:
Allahabad High Court Says The Judgments Which Held “Conversion For The Purpose

Of Marriage only” Not A Good Law, published in the LIVELAW.in on 23-11-2020 is being annexed herewith and marked as **Annexure-8** forming part of this Writ.

28. That the Karnataka High Court in the case Wajeed Khan vs. The Commissioner of Police Bangalore City & Ors. decided on 27-11-2020 held that:

“4. It is well settled that a right of any major individual to marry the person of his/her choice is a fundamental right enshrined in the Constitution of India and the said liberty relating to the personal relationships of two individuals cannot be encroached by anybody irrespective of caste or religion.”

True copy of the article “Right To Marry A Person Of Choice Irrespective Of Caste Or Religion A Fundamental Right :Karnataka High Court,

published in the LIVELAW.in
on 30-11-2020 is being annexed
herewith and marked as
Annexure-9 forming part of
this Writ.

29. That the Supreme Court's Vacation Bench comprising of Justice Ashok Bhushan and Justice Surya Kant, on March 9th 2020 granted protection to a newly married inter-caste couple from any coercive action and directed the police of Delhi, Rajasthan and Uttar Pradesh to provide them adequate security due to alleged threat to their lives from their family members.

True copy of the article "SC
grants protection to newly
married inter-caste couple"
published in The Tribune dated
09-03-2020 is being annexed
herewith and marked as
Annexure-10 forming part of
this Writ.

30. That it is most humbly submitted that Article 21 and 14 of Indian Constitution not only guarantees Right to Life and Personal Liberty but also casts a duty upon the state to safeguard it.
31. That it is further submitted that Article 21 and 14 of Indian Constitution not only protects the Indian citizen but also the alien from arbitrary actions of the state, and in case the state fails to safeguard this inalienable right, in such cases it must compensate the victim.
32. That the petitioners are liable to be compensated as the state has miserably failed to protect their rights and petitioner no. 1 who is in the custody of Snehashray Nari Niketan, Kanke against her will and right thereby violates Article 14 & 21 of the Constitution, as it does not talk about mere animal existence.
33. That the police department and the other people in authority may not bring justice to the newly married inter religion couple, as most of the people in the society are still conservative in their approach towards life.
34. That the petitioners being citizen of India are entitled to the protection of law as guaranteed and mandated under the Constitution of India

35. That petitioners seek leave of this Hon'ble Court to add, alter, amend or delete part or portion of the petition as and when found necessary for the ends justice.
36. That in view of the facts and circumstances, the petitioners have got no other efficacious, alternative, speedy and economic remedy than to invoke extraordinary inherent jurisdiction of this Hon'ble Court.
37. That the petitioners have not moved earlier before this Hon'ble Court for same relief(s) as sought in the present writ application.
38. That the instant application is being made bona fide and in the interest of justice.
39. That the other and further grounds shall be urged at the time of hearing on this petition.

It is, therefore, prayed that Your Lordships may graciously be pleased to issue writ or writs and pass following directions:

- a. For a writ in nature of mandamus commanding upon the Respondent/State to take the appropriate action and quash the F.I.R being Sukhdeonagar (Pandra O.P) PS case no. 335/2020 u/s 363/366/34 I.P.C.

And

b. For a writ in nature of mandamus commanding upon the Respondent/State to take the appropriate action and release the petitioner no. 1 from Snehashray Nari Niketan, Kanke.

And

c. For a writ in nature of mandamus commanding upon the Respondent/State to take the appropriate action and hand over the petitioner no. 1 to her lawful husband i.e., petitioner no. 2.

And

d. For a writ in nature of mandamus commanding upon the Respondent/State to take the appropriate action and urgently provide protection to the inter-religion married couple.

And

e. For a writ in nature of mandamus commanding upon the Respondent/State to take the appropriate action and comply the order and directions given by the Supreme

Court in **Lata Singh vs. State of U.P and Another (2006)**
5 SCC 475 : (2006) 2 SCC (Cri) 478.

And

- f. For a writ in nature of mandamus commanding upon the Respondent/State to take no coercive step against the couple i.e., petitioner no. 1 and petitioner no. 2.

And

- g. For a writ in nature of mandamus commanding upon the respondents to pay suitable litigation cost to the petitioner no. 1 and petitioner no. 2.

And

- h. For further issuance of an appropriate writ(s)/ order(s)/ direction(s) as Your Lordships may deem fit and proper in the facts and circumstances of the case and in the interest of justice.

And for this the petitioner shall ever pray.