

*ORDER SHEET***IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**

1. C.P.No.S-1019 of 2017.

2. C.P.No.S-1061 of 2017.

DATE**ORDER WITH SIGNATURE OF JUDGE**

22.06.2017.

M/s. Munawar Ali Palh, Bhagwan Das Bheel alongwith Jagdish R. Mullani, Advocates for petitioners / respondent No.4, respectively.

Mst. Gulnaz and Syed Nawaz Ali Shah, petitioners in C.P.No.S-1019/2017 and Satio, petitioner in C.P.No.S-1061/2017 are present in Court.

Mr. Ali Ahmed Palh, Advocate for intervener.

Mr. Ali Abbas Memon, State Counsel alongwith Qurban Rajar SHO PS: Dhano Dhandhal.

Mr. Zahoor A. Baloch, Advocate files Vakalatnama on behalf of respondent No.4 as well alleged abductee girl in C.P.No.S-1061/2017.

=

Heard learned counsel for respective parties. Counsel for petitioners in C.P.No.S-1019/2017 has placed on record copy of order dated 14.06.2017, passed in C.P. No.D-2172/2017 and has emphasized that statement of alleged abductee girl was recorded, wherein she has claimed herself as *sui juris* as well she stated that she has contracted marriage with Nawaz Ali Shah on her own choice, thereby Court directed that no arrest shall be made and protection shall be provided to the couple.

2. Mr. Ali Ahmed Palh, counsel for intervener, has referred SBLR 2016 Sindh 1183 order passed in Suo-Moto Case No.01/2014. In SBLR 2016 Sindh 1183 wherein same issue was involved and one Mst. Anjalee Bai (Muslim name Mst. Salma) was claiming herself to be 18 years of age, whereas parents were claiming her to be of 12½ years of age and she was sent to Darul Aman as well counsel for petitioner in C.P.No.S-1061/2017 has emphasized over section 3 of Child Marriage Restraint Act and has produced school certificate. Comments are filed by SSP Mithi. Father of the girl is present in Court and contends that she is under pressure and marriage is under compulsion. Same plea is of his counsel.

3. Whereas, Mr. Zahoor A. Baloch, Advocate for alleged abductee as well respondent Nawaz Ali Shah while referring section 2 of Offence of Zina (Enforcement of Hudood) Order, 1979 as well to section 5 of Muslim Family Marriage Act, 1964, contends that this is not a case of forcible marriage; girl is *sui juris*; Nikahnama says that she is 18 years of age and matter is sub-judice before Divisional Bench of this Court, wherein categorical direction was issued by this Court, therefore, instant petition is not maintainable. However, on a query counsel for respective parties are agree that if girl Mst. Gulnaz (so named by her husband while as Raveta Bai by her father), is sent to Darul Amaan for one day with direction to produce her before this Court on 23.06.2017 to ensure that she is not under any pressure and her *fresh* statement may be recorded; in such *fresh* statement, if she is supports her earlier statement then father and mother of girl will not pursue the F.I.R. as well their grievance except protection on any forum. Counsel for petitioner Satio contends that whatever girl will state they will follow and they will not raise any objection on such statement with regard to factual aspect of marriage.

4. I have heard respective sides and would not hesitate in saying that Child Marriage restrained Act; Muslim Family Marriage Act, 1964 and Zina (Enforcement of Hudood) Order, 1979 may open a *debate* with regard to age for attaining status of *sui-juris* however, and none can dispute the legally established position that none of these laws can be exploited. This Court is *equally* conscious of the fact of this general issue as observed in earlier petitions bearing C.P.Nos.S-501, 654 & 779 of 2017 and on issue of free will marriage directions have been issued for protection to those girls against whom their parents are inimical *least* unhappy which *normally* result into declaring such *girls* as '**Kari**' therefore, by that order Province of Sindh was directed to establish a mechanism with regard to protection of those girls as well to those who have contracted marriage on their own will and apprehend threats to their lives and other departments i.e. Women Development Department, status of women comission and Social Welfare shall come

forward with a reasonable proposal to save them and to provide protection by taking necessary steps for their rehabilitation. It may be added that in such like matters *normally* the words, if satisfies the conscious of the court to be *true*, shall required to be given due weight hence such *girls / women* must have a place for *safety* least till removal of her *apprehensions*. In C.P.No.S-1884 of 2016, which was heard by this Court today, it is surfaced that 09 Rescue Centres have been established in view of earlier judgment of this Court and specific directions were issued to I.G.P. Sindh and Home Secretary Sindh for providing complete mechanism with regard to Women Development Program, Toll Free Number and Staff deployed on those Rescue Centres with wide publicity of those Rescue Centres which *hopefully* shall serve the purpose thereof and *girls* and *parents* shall have their rights protected without any harm to their names and reputation which *normally* comes under serious clouds the moment a girls steps out of her house though with her own free will.

5. Leaving the concern to be addressed and attended by quarter concerned under *directives* of law, since the parties have agreed to honour the *words* of the girl, therefore, while taking in view the above circumstances as well with the agreement of the parties' alleged detenu Mst. Gulnaz (Raveta Bai) is hereby sent to Darul Aman Hyderabad for one day. The Incharge of Darul Aman shall *however* ensure that *girl* remains uninfluenced from either sides and must be provided a *free* atmosphere assuring her that her all rights shall be protected. She shall be produced before this Court by tomorrow i.e. 23.06.2017 at 10:30 a.m. Women Development Officer, Hyderabad is hereby directed to visit this girl and ensure that she is not under any pressure as well she shall report with regard to reasons of marriage as observed by her or any suggestion.

To come up on 23.06.2017 at 10:30 a.m.

JUDGE

