

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.

C.P. No. D – 120 of 2018.

DATE	ORDER WITH SIGNATURE OF JUDGE
<u>07.02.2018.</u>	

FOR ORDERS ON OFFICE OBJECTIONS.
FOR KATCHA PESHI.

Mr. Jamshed Lucas Khokhar, Advocate along with the petitioners.

Mr. Mir Naeem Talpur, Advocate has filed his Vakalatnama on behalf of respondent No.8.

Mr. Muhammad Ismail Bhutto, A.A.G. along with ASI Imdad Ilahi P.S. Nabi Sar Road [Respondent No.6].

It is stated by learned counsel for the petitioners that petitioner No.1 has contracted marriage with petitioner No.2 under valid Nikahnama dated 03.01.2018 which available on record as Ex.19 of the case file. He further submits that after the Nikah the petitioner No.1 is residing happily with petitioner No.2 without any pressure and coercion.

Petitioners present in Court have affirmed this fact and further submit that due to this unceremonial marriage the private respondents are annoyed and they are harassing the petitioners and in this regard an F.I.R. bearing crime No.01 of 2018 under section 365-B PPC has been registered at Police Station Nabisar Road, District Umerkot by respondent No.9.

Mr. Mir Naeem Talpur, Advocate appearing for respondent No.8 submits that petitioner No.1 entered into marriage with petitioner No.2 [Shah Baig] without obtaining 'Talak' from her previous husband [respondent No.8] namely Sikandar. Therefore, according to him this Constitutional Petition is not maintainable. He has also filed objections against this Constitutional Petition which are taken on record. He has also filed an application for medical checkup of petitioner No.1. Copy whereof has been supplied to learned counsel for the petitioner.

Petitioner No.1 denied that she entered into marriage with petitioner No.2 [Shah Baig] without first obtaining 'Talak' from her previous husband Sikandar [respondent No.8].

Since the petitioners are present in Court. They have claimed that they entered into marriage under valid Nikahnama which is available on record. Therefore, I/O of the case under crime No.01 of 2018, Police Station Nabi Sar Road, District Umerkot, is directed to record the statement of Mst. Yasmeen under section 161 Cr.P.C. in the office of learned A.A.G. and produce the copy of the same before this Court and submit report/summary before the concerned Judicial Magistrate who will pass appropriate order. Till then no arrest shall be made in F.I.R. No.01 of 2018, Police Station Nabi Sar Road, District Umerkot.

As far as the arguments of Mr. Mir Naeem Talpur, counsel appearing for the private respondent No.8 [Sikandar] is concerned it is observed that these are disputed questions of facts which cannot be resolved under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973. However, the respondent No.8 [Sikandar] would be at liberty to agitate his grievances before competent forum in accordance with law.

In the meantime official respondents are directed not to cause any harassment to the petitioners and if any protection is required to the petitioners the same may also be provided to them strictly in accordance with law. In the meantime the petitioners shall not be arrested in the aforesaid F.I.R.

The petition stands disposed of in the above terms.

JUDGE

JUDGE

A.