

**IN THE HIGH COURT OF SINDH
CIRCUIT COURT MIRPURKHAS**

Constitutional Petition No. S-213 of 2024
(*Mst. Rani and another Vs. Province of Sindh & others*)

DATE ORDER WITH SIGNATURE OF JUDGE

Date of hearing and order 26.09.2024

Mr. Mir Muhammad Nohri advocate for petitioners a/w petitioners.
Mr. Dhani Bakhsh Mari, Assistant P.G Sindh

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ORDER

Adnan-ul-Karim Memon, J. The petitioners have contracted marriage out of free will and such *Nikahnama* was executed on 21-08-2024 and so also affidavit of free will was executed by petitioner No.1 Mst. Rani on 22-08-2024. Petitioner No.1 claimed herself to be 30 years of age; her previous name was Shr. Kamli, Hindu by Religion, then she has embraced Islam and contracted marriage with petitioner No.2. Copies of *Sanad-e-Islam*, *Nikahnama*, and affidavit of free will are attached with the instant petition.

2. I have heard learned counsel for the parties, and have also gone through the record available before me.

3. Today SIP Khamiso of P.S Khai has recorded the statement of petitioner No.1, wherein she has re-iterated the same contentions which were disclosed by her on 16-09-2024 before this Court. She further states that she wants to go with her husband/ petitioner No.2 as she has been threatened by her previous husband and she be provided protection under the law.

4. The petitioner No.1 has categorically stated that she has contracted marriage with her consent and free will with petitioner No.2.

5. Going ahead on the other aspect of the case, the freedom of religion must be construed liberally to include freedom of conscience, thought, expression, belief, and faith. Freedom, individual autonomy, and rationality characterize liberal democracies, and the individual freedoms thus flowing from the freedom of religion must not be curtailed by attributing an

interpretation of the right to religious belief and practice exclusively as community-based freedom. In this regard, Article 20 of the Constitution of 1973 sanctifies it as a fundamental right.

6. Learned counsel has assisted on the subject and emphasized that a married non-Muslim woman who converts to Islam must file a petition in the family court to dissolve her marriage. The court should then summon her husband and inform him of her conversion, offering him the chance to convert to Islam as well. If the husband accepts Islam within the Iddat period, the marriage continues. However, if he remains non-Muslim after the Iddat period, the court can grant a decree of dissolution of marriage. This would allow the woman to marry a Muslim man if she chooses. Iddat is mandatory after any type of marriage dissolution and serves as a waiting period for the non-Muslim husband to consider conversion and to determine if the woman is pregnant. On the aforesaid proposition, the law initiated in the reported cases PLD 2020 Lahore 489, 1986 CLC 1857, 1999 CLC 1202, 1995 P Cr. L J 474, 2022 MLD 1956, and an unreported order from this court supports this contention.

7. Without touching the aforesaid crucial issue, which is not feasible at this stage to dilate upon and same shall be taken up in other proceedings.

8. In view of the above instant petition is disposed of with the direction that petitioners shall not be harassed by police officials or any other person and to protect the petitioners under law.

JUDGE

“Ali Sher”