

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE GAJENDRA SINGH

ON THE 2nd OF AUGUST, 2024

MISC. PETITION No. 1422 of 2024

SMT. SAROJ

Versus

AASHISH YADAV

.....
Appearance:

Jyotsana Rathore, learned counsel for the Petitioner .

Lakhan Singh Chandel, learned counsel for the Respondent [R-1].
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ORDER

This Misc. Petition under Article 227 of the Constitution of India is preferred challenging the validity of order dated 24.11.2022 in Hindu Marriage Case No.1089/2018 by Additional Principal Judge, Family Court, Indore whereby an application under Order 17 Rule 1 of C.P.C. preferred on behalf of husband/respondent has been allowed.

[2] The petitioner/wife filed petition under Section 125 of Cr.P.C. for interim maintenance. The marriage of petitioner/wife and respondent/husband was solemnized on 24.02.2016 at Indore. The respondent/husband filed an application under Order 17 Rule 1 of C.P.C. for taking electronic document/compact disk on record.

[3] The petitioner/wife opposed the prayer but the Trial Court has allowed the application.

[4] Challenging the validity of order, this Misc. Petition has been

preferred on the ground that so called recorded conversation is not admissible in the evidence. It violates fundamental rights under Article 21 of the Constitution of India relying upon *People'S Union of Civil Liberties. Vs. Union of India (Uoi) and Anr. AIR 1997 SC 568, Aasha Lata Soni Vs. Durgesh Soni LAWS (CHH) 2023-10-30 and Neha Vs. Vibhore Garg SCC 2021 OnLine P&H 4571.*

[5] Counsel for the respondents opposed the Misc. Petition submitting that rarely *would* there be direct evidence of *adultery* and relationship of marriage did not warrant protection under article 21 of the Constitution of India. Article 21 is not absolute right and respondent/husband rights under Hindu Marriage Act and family Court Act must prevail at the most proceedings may be ordered to be conducted in camera.

I have learned counsel for the parties and perused the record.

[6] Impugned order mentioned that the petitioner/husband has described the contents of pendrive having chats disclosing the illicit relationship of wife which imputes character of wife. The only reasons for admitting the electronic record is assigned that matter is at the stage of evidence and wife/petitioner has opportunity to rebut the evidence tendered in the form of electronic record.

[7] The matter on the same facts earlier came before M.P. High Court in case of *Anurima alias Abha Mehta Vs. Sunil Mehta reported in AIR 2016 Madhya Pradesh 112 and Abhishek Ranjan and Hemlata Chaubey Misc.Petition No.1300/2023 decided on 29.08.2023*) and in both of cases it has been held if husband recorded conversation of wife with other person

without her knowledge then it is an infringement of her right to privacy and is violative of Articles 19 and 21 of the Constitution of India.

[8] Accordingly, this Court is of the view that the order passed by the Trial Court is not sustainable, thus order dated 24.11.2022 is hereby set aside.

Certified copy as per rules.

(GAJENDRA SINGH)
JUDGE

Praveen

