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LAXMIBAI CHANDARAGI B & ANR.

v

THE STATE OF KARNATKA & ORS.

(Writ Petition [Criminal] No. 359/2020)

B

FEBRUARY 08, 2021

[SANJAY KISHAN KAUL AND HRISHIKESH ROY, JJ.]

Constitution of India – Article 21 – **Right to choose life partner**

–petitioner no.1 mangkhibagi complaint apokpa mapana thangatlakpa– FIR –

Petitioner no. 1 asi mahakki emung manung mapa mama khanghandana, Hubli dagi Delhi faoba chatlaga Petitioner no.2 ga U.P ta leiminnakhi- Emung manungda luhongbagi certificate whatsapp ki khuthangda tharakkhi- IO ta pao taakkhi- IO na Murgod Police station da chattuna pao piyu haibada emung manung mapa mama na aki akhang pirakkani chingnabadagi Petitioner no.1 na yakhide- Petitioner ani na Allahabad High Court ta Chattuna makhoibu ngakpi senbiyu, **protection pibiyu haijakhi- court na makhoigi matter asi tha ama hellabafaoba list ta hapkhide---** Writ petition u/**Art.2—touxhre** (HELD): Party animak lairik laisu heiraba, **majors** amadi Hindu laining chatpa meei ni—lairik laisu khang heiraba nupa nupi sing houjik mamangeigi samajki Dharma, jaat khaibagi chatnabi adu thadoktuna masana khoidajaba punsi khongloi thinarakli- masi manglom da chaokhatpa lambida chatpani- Murgod Police Station da pankhiba FIR gi matung inna chatthagadoubu proceeding pumnamak kakle.

Court na Petition kakpa **pangthokhre:**

- 1.1 IO aduna Petitioner no.1 da Karnataka gi local Police station da lak u chatlu hairambagi mahutta Petition no.2 gi yumda chatlamlabadi, petitioner no.1 gi statement sing marik chumna petitioner ani punna leiminnariba mafam, Petitioner 2 gi yumdagi loubha phanglamgani. Masidasu nattana, IO na Petitioner no. 2 gi mathakta aranba case pallakpa yai amadi mahakpu phaba yabagi khudong thiba lei haiduna petitioner no.1 bu police station da statement record tounabagi damak namphu da koukhi. Hairiba IO asina case asi handle toubagi thouwong ninda touningai oi yaningde. [Para 7][521-G-H; 522-A]
- 1.2 Party (Nupi Nupa) animak lairik laisu heiraba meei ngaktani. Petitioner 2 gi emung **manungna matik charajba mahei masibg majora faoba tamllamba** amadi hindu laining

chatpa petitioners anibu luhongbada yaningkhi adubu Petitioner No.1 gi emung manung gi maikhi dagidi yakhide, ayetpa leikhi. Lairik heiraba naha nupamacha nupi macha singna mamangeigi samaj (society) gi chatnabi phurup jaati gi khetnabi sing adu tungoinaramlaga masa masana khoidajaba punsi khongloi life partner thiningnarakli. Hairiba phurup amadi jaat mannadaba masel luhongba asina **caste** amadi **community** singi erang hanthahanba ngamgadouba khongthang ama oiba yagani. Adudu, asigumba lairik laisu heiraba naha singi masagi oiba phirep asigi maiyokta makhoigi ahal lamam mapa mamasingna leppi ayetpa pi amadi aki akhang pi amadi asigumba nahasing asida Court na mateng piduna lakli. Hairiba case asigi matangda karigumba IO asina mathou masak khangna complaint asibu **close** touramlabadi court na mityeng changba (intervention) mathou taramloi amadi Petitioner no.1 gi **statement** adubu tasengna record toubu pamlamlabadi, Petitioner no. 1 bu Police station da koubagi mahutta IO masamakna chatlaga statement adu record touramba yabani.

Masida Police authorities na louthakkadaba khongthongsi houjik leiriba IO sing asi counsel toubu paotak pibagi mathakta asigumba case sing asi ningthijana loukhatnabagidamak police personnel singi oina training programme ama sinba tangai phadey. Police authorities na lakkadouriba chayol **8** gi manungda action louthaktuna **guidelines** ama semgani amadi asigumba socially sensitive oiba case sing ningthijana loisinnaba **handle** tounabagi damak training programme kaya singani haina loujare. Murgod Police Station, Belagavi District ta FIR register toukhiba case asigi Proceeding sing loisille/ Kakle. [Paras 8, 9, 12-14]
[522-B, C-D; 523-B-E]

1.3

Shakti Vahini vs. Union of India (2018) 7 SCC 192 :
[2018] 3 SCR 770; Asha Ranjan v. State of Bihar (2017)
4 SCC 397 : [2017] 1 SCR 945; Shafin Jahan v. Asokan
K M & Ors. (2018) 16 SCC 408; Lata Singh vs. State
of U.P (2006) 5 SCC 475 : [2006] 3 Suppl. SCR 350;
K.S. Puttaswamy v. Union of India (2017) 10 SCC 1 :
[2017] 10 SCR 569 – relied on.
Case Law Reference

[2018] 3 SCR 770 relied on para 10
[2017] 1 SCR 945 relied on para 11
[2006] 3 Suppl. SCR 350 relied on para 11
[2017] 10 SCR 569 relied on para 11

ORIGINAL JURISDICTION : Writ Petition (Criminal) No. 359
of 2020.
(Under Article 32 of The Constitution of India.)

Prabhat Kumar Rai, Kameshwar Nath Mishra, Ms. Smriti Singh,
Christopher B Dsouza, Shubhanshu Padhi, Ashish Yadav, Rakshit Jain,
Vishal Banshal, Ankit Goel, Sachin Sharma, Advs. **for the appearing parties.**

SANJAY KISHAN KAUL, J.

Na piba Court ki Judgment

Rule.

1. **Court and** party singi counsel gi warol tarey.

2. Mr. Basappa Chandaragi kouba meei amana

Murgod Police Station, Savadatti Taluk, Belagavi District ta mahakki macha nupi Ms. Laxmibai Chandaragi, petitioner No.1 asi 14.10.2020 dagi mapham khangdana mangkhre haina complaint ama **lodge** tourakhi. Complaint asigi matung inna missing/ mee mangkhibagi FIR No.226/2020 register toukhi amadi station adugi investigation officer na mangkhre hairiba meei adugi mama mapa, mari matagi statement sing record toukhi amadi makhoi call details sing loukhi. Call details sing yengbada, Petitioner no. 1 asi Mr. Santosh Singh Yadav, petitioner No.2 ga pao phaonei haiba khangba ngamkhi. Investigation gi manung channa, Petitioner no. 1 asina mama mapa khanghandana Hubli dagi Bangalore phaoba flight tongduna chatkhi aduga Bangalore dagi Delhi phaoba amuk chattuna Petitioner no. 2 ga luhongkhi haiba khangba ngamkhi. Petitioner no. 1 na mahakka Petitioner no. 2 ga luhongbagi certificate adu mahakki mama mapa da whatsapp ki khuthangda 15.10.2020 da tharakhi. Case asi makha chattharakpada IO asina petitioner no. 1 gi mari makhong khangnabagidamak Ghaziabad ta chatkhi, mahak na Petitioner no. 2 gi mayum da chattuna hangba matamda Petitioner no. 2 gi mama mapa na Petitioner ani asi gi leipham marimakhong khangde haina harakkhi. Adubu, Petitioner No. 1 ga Investigation Officer ga wari sakhiba matamda, mahak Petitioner no. 2 ga luhongle amadi makhoi ani **punba** leiminnei hairakkhi. Abudu case close tounabagi damak Petitioner no. 1 bu Murgod Police station laktuna statement pinaba IO asina taksinkhi. Cheirak sida, Petitioner no. 1 na mahak Petitioner no. 2 ga luhongle **and** mahakki mama mapa na khihallak e maram aduna Police station da lakpa ngamjadre haina IO da chitthi (letter) ama tharakhi. Adum oinamak IO asina missing person/ mee mangkhiba gi case asi kakthatkhide, close tousinkhide.

3. Hairiba thoudok asigi matangda, houjik leiriba petition asi India gi Constitution gi Article 32 gi makha da file toukhibani maramdi petitioner gi leifam gi matung inna jurisdiction ani thok e, amana mahakna Petitioner no. 2 ga Uttar Pradesh ta punna leiminnaba amadi Petitioner no.1 asi Karnataka dagi lakpa meei oiba.

Petitioners anigi matung inna, Petitioner No.1 gi makhura na **makhou ani khihan** khangba warol kaya thamlakkhi. Petitioner anina Allahabad High Court ta 19.10.2020 da chattuna makhoi amadi emung gi meei singbu ngakpi senbinaba, protection pibinaba haijakhi. Adubu case asi urgent hearing (athuba hearing) gidamka tha ama hellabaphaoba loukhatpa ngamkhide.

4.

Petitioner anina petitioner no. 1 ga police ka wari sakhilagi warol, transcript adu haplakki annex tourakki. Warol aduda IO aduna Petitioner no. 1 bu Karnataka da lak u natrabadi Petitioner No.2 gi mayokta police laktuna kidnapping gi case ama Petitioner no. 1 gi emung manungi complaint matung inna register tougani haina hairakki.

5. Court asina Kannada dagi English ta translate touraba transcript adugi **page D** dagi Page H faoba mamut tana parey. Transcript asida Petitioner No. 1 na mahak **safe oide** haina phongdokki. IO asina case asi close touningle hairbasu petitioner no. 1 gi statement adu police station da lak-handuna record toubu pamki. IO asina makhatana Petitioner No.1 da mahakki emung manungna mahakki mayokta yumdagi pot hurankhibagi case ama file tourakpasu yai haina haiki amadi karigumba case asi pallabadi Petitioner No.2 da **negative mark** ama leigani amadi Petitioner no. 2 asi phaba tarabadi mahakki thabak ta akaiba apanba kaya lakkani hainasu IO aduna haiki.

6. Mathakta pankhriba warol sing asi, counter affidavit ta palliba IO asina petitioner anida **threaten** toukhida akiba **pibide** hairiba warol asiga taiyonnabani, chanadre.

7. Mathakta pankhriba warol sing asigi matung inna Police authority amadi IO na mathou fajanna pangthokki haiba mami tade. IO masada marriage certificate adu **leikhi** amadi petitioner no.1 ga IO asiga wari sanabada mahak petitioner no. 2 ga luhongley, masada safe oide khabana Police station da lakpa ngamloi haina sengna hairakki. Karigumba IO asina Karnataka gi Police station da lak u haina petitioner anida koubagi mahut Petitioner 2 gi mayumda chatlamlabadi, Petitioner no. 1 gi statement adu fajana record toubu yaramgani. Masidasu nattana, Petitioner no. 1 gi mama mapa imung manungna aranba case ama panduna petitioner no. 2 phoba phaba yai haina kihanduna Petitioner no. 1 du statement pinaba Police station da lak u haina taksinkhi. Hairiba IO asigi thowong asi Court asina akanba maong da yaningde maram aduna mahak asigumba case asi handle toubagi niyom khangnaba counselling **pigadaban0**.

8. Party animak **nupa amasung nupa** lairik laisu heiraba meei ngaktani. Petitioner no. 2 asi NIT, Tiruchirapalli dagi M. Tech ni aduga Petitioner No. 1-**wife** asina M.A.B.Ed ni. Petitioner No.2 asi Assistant Professor oina Jain College of Engineering, Belagavi, Karnataka da purammi amadi Petitioner no. 1 na lecturer oina KLES (Karnataka Lingayat Education Society) Pre-University College, Bailhongal da puramki. Makhoigi oja oibagi assignment matam asida makhoi anigi marakta nungsinabagi mari leinarakkhiba oiramba yai. Adudu, Petitioner No. 1 gi emung manungdagi makhoi anigi mari pamdaba ayetba leikhi. Petitioner No. 2 gi emung manungnadi lairik laisu heiraba matik charaba Hindu laining chatpa makhoi anibu luhongba pamki.

9. Lairik heiraba naha nupamacha nupi macha singna mamangeigi samaj (society) gi chatnabi phurup jaati gi khetnabi sing adu tungoinaramlaga masa masana khoidajaba punsi khongloi life partner thiningnarakli. Hairiba phurup amadi jaat mannadaba masel luhongba asina caste amadi community singi erang hanthahanba ngamgadouba khongthang ama oiba yagani. Adudu, asigumba lairik **laisi** heiraba naha singi masagi oiba phirep asigi maiyokta makhoigi ahal laman mapa mamasingna leppi ayetpa pi aki akhang pi amadi asigumba nahasing asida Court na mateng piduna lakli.

10. Eikhoina Court ki hannagi Judicial pronouncement ta leple madudi chahi suraba mee oi adult anina luhonglagey yumbanbagi lambi da changlagey haina yanaradi makhoigi apamba aduna khwaidagi maru oina haina lougadani amadi emung manungi natraga community (phurup) natraga clan (sagei) gi oiba ayaba mathou tadey. Hairiba context asi yenglaga matung, Court makha tana loure madudi meei amagi dignity ejat asi meei aduna pamjariba ningjaba aduga khaidoknaraba yararoidaba potsak amani maramdi **meeoina a** mana masagi apamba aningba **choice** adu kairaklabadi dignity amadi ejat ki khallakloi. Aduna asigum masagi apamba khanjabagi hak/ right asi **“class honour”** natraga **“group thinking”** su concept ta lupchinhankhiba yaroi.

11. **In** Shafin Jahan v. Asokan K M & Ors.³, Court asina samaj asi yamna maru oina ahongba kaya lakpaga maikaida lakli haiba uba phangle. Amadi luhongbagi **nakpa mari** haibasi esa esagi yamna aronba privacy gi oiba **zone** leiba potni, laining liaison nafaoba masida ayetpa piba ngamlaroidaba potsakni. Esana khoidajaba meeoiga luhongbagi hak (right to marry a person of choice) asi India gi Constitution gi Article 21 gi manung channa mayek sengna palli. Hiram asiga Mari leinana, justice ks puttaswamy v. Union of india⁵ ki judge 9 na saba bench amana takhiba rai adu refer toubu yagani. Rai adugi matung inna, meei amagi imung manung gi oiba amadi yumban Lambi da khongdaba asi meei adugi dignity gi maru oiba amagi manung challi

12. Case asigi matangda karigumba IO asina mathou masak khangna complaint asibu close touramlabadi court na mityeng changba (intervention) mathou taramloi amadi Petitioner no.1 gi statement adubu tasengna record toubu pamlamlabadi, Petitioner no. 1 bu Police station da koubagi mahutta IO masamakna chatlaga statement adu record touramba yabani.

13. Masida Police authorities na louthakkadaba khongthongsi houjik leiriba IO sing asi counsel toubu paotak pibagi mathakta asigumba case sing asi ningthijana loukhatnabagidamak police personnel **singi** oina training programme ama sinba tangai phadey. Police authorities na lakkadouriba chayol 8 gi manungda action louthaktuna guidelines ama semgani amadi asigumba socially sensitive oiba case sing ningthijana loisinnaba handle tounabagi damak training programme kaya singani haina loujare.

14. Aduna case asigi matang da, petitioner anina petition asi file tourakkebagi matung inna, makha tana statement record toubu, loubu mathou tadrey. Aduna FIR No.226/2020 Murgod

Police Station, Belagavi District, Karnataka da register tourakhiba asigi proceeding sing, Petitioner No.1 gi imung manungna petitioner anigi luhongba asi **accept toure** yarey amadi petitioner no. 1 khak nattana Petitioner no.2 gasu **social interaction** hannagum touragani loujaraga, kakle quash toure. Court ki mityengda hairiba asina mang lomda chatkadouba lambini. Phurup amadi jaat ki mingda echa amadi **eya** nupa bu inthokpa haibase samaj na pamnaba thouwong oiroi. Dr B.R Ambedkar na eramkhi---

“**Caste** ki chatnabi muthatpa:

Caste system tasengna ngakthoknabagi pambei di jat-bijat khaidana jat amaga jat amaga luhongbani haina eina thajei. EE-mari khaktna echil enao mari mata sagei natei **oibadi** ehul adu pok-hangani, hairiba echil enao oibagi mari asi semdribafaoba amaga amaga **lapthoknahanda** yenghanba caste ki chatnabi asi mangkhiroi. Samaj asi atoppa mari kaya punsinda thamli, luhongba asidi punsigi achamba thoudok amani. Adubu samaj asina machete tana kairaklaba matamdadi luhongba asina punsinba **ngamhanda** achetba erei ama oina yamna taingai fade. Samaj asina punsinba yaraktrabadi, jat amaga jat **maaga** luhongbana asengba pambei ni caste ki chatnabi thugainaba. Atoppa potsak amattana caste pu tumhanba ngamloi.”

15. Mathakta pankhriba **term** sing asiga loinana writ asi dispose toure!