

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)

WRIT PETITION NO. _____ OF 2011.

IN THE MATTER OF:

An application under Article 102 of the constitution of the People's Republic of Bangladesh.

AND

IN THE MATTER OF:

Public Interest Litigation (PIL)

AND

IN THE MATTER

1. Human Rights and Peace for Bangladesh (HRPB) Represented by it's Secretary Advocate Asaduzzaman Siddiqui, Hall No. 2, Supreme Court Bar Association Bhaban, Dhaka, Bangladesh.
2. Advocate Sarwar Ahad Chowdhury, Organizing Secretary, Human Rights and Peace for Bangladesh (HRPB) of 3/14 Bashbari Bosila Road, Mohammadpur, P.S.: Mohammadpur, Dhaka.

..... Petitioners.

-V E R S U S-

1. Bangladesh represented by the Secretary Ministry of Home Affairs, Bangladesh Secretariat, P.S.: Ramna, District: Dhaka.
2. The Inspector General of Police (IGP) Police Bhaban, Phulbaria, P.S.; Ramna, District- Dhaka.
3. The Deputy Commissioner Moulavibazar, District- Moulavibazar, Bangladesh.
4. The Police Super, Moulavibazar, District- Moulavibazar, Bangladesh.
5. The Officer in Charge (O.C.), Moulavibazar Sadar Thana, District- Moulavibazar, Bangladesh.
6. Moulavi Faizul, Secretary, Borokapan Jame Masjid, village- Borokapan, U.P. Ekatuna, P.S. Moulavibazar Sadar Thana, District-Moulavibazar.
7. Azad Mia, of village- Borokapan, U.P. Ekatuna, P.S. Moulavibazar Sadar Thana, District- Moulavibazar.
8. Nanu Mia, Borokapan Jame Masjid, village- Borokapan, U.P. Ekatuna, P.S. Moulavibazar Sadar Thana, District-Moulavibazar.
9. Askor Mia of village- Borokapan, U.P. Ekatuna, P.S. Moulavibazar Sadar Thana, District- Moulavibazar.

.....Respondents.

GROUND S

I. For that the duty and responsibility vested upon the law enforcing agency to protect citizen from the unlawful activities. The respondents are also duty bound to

obey the provision of law. It is the duty of a police officer to investigate the case where provision of law has been violated. But they have failed to perform the duties and responsibility as per the law. Hence direction may be given upon the respondents to take legal action against the violators of the law.

II. For that the persons who forced to get hilla marriage are liable to be punished under section 508 and 506 of the Bangladesh penal code. More over as per Article 21 of the constitution of the Peoples Republic Of Bangladesh duty of every citizen and public servant is to observe the constitution and law but failed it by the respondents. Hence a direction may be given upon the Respondent.

III. For that the facts as reported in the news paper there was no talaq between the parties but forced to get hilla marriage, is totally illegal and against the sprit of law. The persons who gave fatwa for such kinds of hilla marriage, they are liable to be prosecuted under the law. The law enforcing agency has failed to do their job as vested upon them, hence a direction may be given upon them to take necessary steps against the violators of the law .

IV. For that the practice of Fatwa against the existing law and failure of the authorities to take any action against them or to prevent or punish the perpetrators of Fatwa results in the violation of existing applicable laws, human rights. It is contrary to the laws of Bangladesh and against the Constitution.

Wherefore, it is most humbly prayed that Your Lordships would graciously be pleased to;-

a) A Rule Nisi calling upon the Respondents to show cause as to why the Respondents should not be directed to take legal action against the law violators and why a direction should not be given upon the respondents to initiate legal proceeding against the respondent no 6-9 under section 508/511 of the penal code.

b) Pending hearing of the rule direct the respondent 3 and 4 to ensure the steps for rehabilitation of Koisar Mia and his wife Rabea Khatun of village Borokapon, U.P. Ekatuna of Molavibazar Sadar Thana, District-Moulavibazar, in their living house and to arrange safety of them, within 48 hours and to file affidavit in compliance thereof within 7 days.

c) Pending hearing of the rule direct the respondent no. 6 to 9 to appear in person On 24.02.2011 at 10.30 am before this court and respondent no. 5 is directed to ensure the presence of the respondent no. 6-9.

Present Status

The case was filled and moved by Advocate Manzill Murshid, President, HRPB. After hearing the parties the Hon'ble Court issued Rule Nisi upon the respondents and granted ad-interim order. The matter is pending before the Hon'ble High Court Division.
