



HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 33740 of 2024

Anil Pandit @ Mohammad Ahashan

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Ashish Kumar Srivastava, Yadvendra Krishan
Counsel for Respondent(s)	:	C.S.C.

In Chamber

HON'BLE AJIT KUMAR, J.

HON'BLE INDRAJEET SHUKLA, J.

1. Since the dispute in the matter relates to the order passed by the Additional District Magistrate (Administration), Prayagraj dated 09.08.2024 rejecting the application of petitioner moved under Section 9 of the U.P. Prohibition of Unlawful Conversion of Religion Act, 2021, who claimed to have converted 'Sanatani' from 'Islam' and both husband and wife are living together and the wife is having 7 month's pregnancy, we decided to hear this matter in chamber.

2. Heard Mr. Ashish Kumar Srivastava, learned counsel appearing for the petitioner and Mr. Mukul Tripathi, learned Additional Chief Standing Counsel assisted by Ms. Shruti Malviya, learned State Law Officer appearing for the State respondents.

3. The petitioner, Anil Pandit @ Mohammad Ahashan along with his wedded wife Smt. Aparna Bajpai have appeared in person along with their joint affidavit and are present before us in compliance of previous order of this Court, the affidavit is taken on record.

4. We interacted for 10 minutes with both Ms.Aparna Bajpai and Mr. Anil Pandit @ Mohammad Ahashan separately. During our interaction that we had with Ms. Aparna Bajpai, wife of the petitioner, she made it clear that she had voluntarily tied matrimonial knot with Mr. Anil Pandit as per Hindu Customs and Rites though her father was opposed to it. Now she is living with her husband at her husband's place. She though

is also working as a Lecturer English in an aided Intermediate College at Ballia but she visits her husband's place at Prayagraj and they are happily living together. She claimed to have received financial help from Mr. Pandit only for good friendship and that too for reason that her mother had serious kidney issue to which she finally succumbed. She stated that as a friend when she had shared financial condition of the family and need of urgent medical care of her mother, Mr. Pandit had himself volunteered to help her financially and did help her by giving Rs.1 lakh and that during those days she was not in employment. She also stated that in connection with application moved under Section 9 of the Act, 2021, petitioner was summoned by Additional District Magistrate, Ms. Puja Mishra and she had stated before her all those facts. She admitted to have conceived and is going under 7 month's pregnancy.

5. When we interacted with Mr. Anil Pandit @ Mohammad Ahashan, the petitioner before us separately, he claimed that right since his School days, he was very much attracted towards the Sanatan Darma/Hindu culture and practices and as he grew up he had more liking and bending towards Sanatan Customs and practices and also he had studied Sanskrit as a subject. He said that right from very beginning, in his family nobody used to offer Namaz at home and he being a student of an English Medium School, there in School also there was no such practice to offer Namaz during recess period or at any other point of time. He stated before us that it was when he was pursuing Ph.D. in English Department of Allahabad University that he came to know Ms. Aparna Bajpai, and an intimacy developed which later on turned into liking for each other that was how they decided to marry. However, he admits that even before marriage, since he had liking towards the Sanatan Customs and Rites and he himself got converted in the year 2022 as Sanatani in an Arya Samaj Temple and this ritual was performed by the Pandit Satya Prakash, who was a priest there. He stated before us that he would not be reconverting himself to Islam, though in the affidavit filed today it has been stated that he has no intention to convert back.

6. Both the petitioner and his wife Ms. Aparna Bajpai have categorically stated in the affidavit that they are living together as husband and wife and even performing rituals of Sanatan Customs and Rites, which are

popularly known as Hindu Customs and Rites in India.

7. Mr. Srivastava, learned counsel appearing for the petitioner before us submits that as far as compliance of the provisions contained under Section 8 of the U.P. Prohibition of Unlawful Conversion of Religion Act, 2021 (hereinafter referred to as "the Act, 2021") is concerned, they have not lacked behind. It is submitted that petitioner has fulfilled all the statutory requirements. He submits that on 12.01.2022 the declaration was made to the District Magistrate showing the petitioner's intention to convert to Sanatan Dharma and the conversion took place on 14.03.2022 for which the rituals were performed by Satya Prakash, the Priest of Arya Samaj Temple and he was given new name as "Anil Pandit". It is submitted that the Purohit concerned had given a declaratory information as prescribed under Schedule II regarding conversion, to the District Magistrate. Thus, according to him as required by Sub-Section 2 of Section 8 of the Act, 2021 the Purohit had already given information declaratory in nature that he would be performing rituals for conversion of the petitioner on 11.02.2022. The Additional District Magistrate (Administration), Prayagraj, thereafter, had to get an inquiry conducted in the matter through police as required under Sub-Section 3 of Section 8 of the Act.

8. It is contended on behalf of the petitioner that the Additional District Magistrate (Administration), Prayagraj though got an inquiry conducted through the police in the matter and a report was submitted by the Sub-Inspector, Gyanesh Kumar through the Senior Superintendent of Police, Prayagraj that the conversion of religion by the petitioner took place voluntarily without there being any undue influence exercised upon him or any kind of pressure whatsoever. This report was obtained by the petitioner under Right to Information Act on 26.03.2023 even though it had been received in the office of the Additional Commissioner of Police, Commissionerate, Prayagraj on 16.02.2023. This report, thus, it is submitted was available with the office of the Additional District Magistrate (Administration), Prayagraj in February, 2023 itself.

9. It is next submitted that in the meanwhile since Ms. Aparna Bajpai's father had lodged an FIR under Sections 295A, 420, 468, 469, 471/120-B

of IPC and Sections 8(1), 8(5) of the U.P. Prohibition of Unlawful Conversion of Religion Act, 2021 in connection with Case Crime No.0097 of 2023, and another report got submitted by the police on 23.10.2023. This report dated 23.10.2023 has been discussed in the order impugned and it has come to be stated in the report that no pressure was exerted upon the petitioner, nor otherwise he was unduly influenced for getting himself converted to Sanatan Dharma.

10. Learned counsel for the petitioner has drawn attention of this Court to the order of Additional District Magistrate (Administration), Prayagraj dated 19.07.2023 in which she had directed the police to submit his report after conducting inquiry in terms of the provisions contained in the Act of 2021 and he submits that the order itself records that there is a police case was registered against the petitioner against which the petitioner had filed a writ petition being Writ Petition No.8652 of 2023, which was pending before the High Court. It is in this petition itself an interim protection was granted to the petitioner vide order dated 13.04.2023. Copy of which has been brought on record as Annexure No.12 to the petition. He submits that the order of interim protection was conditional by which the petitioner was required to get the marriage registered for the protection to continue, however, in view of the order impugned passed by the Additional District Magistrate (Administration), Prayagraj, the petitioner could not get the marriage registered.

11. Mr. Srivastava further submits that after the report was submitted by the police pursuant to the order of the Additional District Magistrate (Administration), Prayagraj, which clearly notices the pendency of the Criminal Writ Petition, a further direction ought not to have been issued for a fresh inquiry. It is submitted that the inquiry as contemplated under Sub-Section 3 of Section 8 of the Act, 2021 only talks of one inquiry to be held by the District Magistrate or Additional District Magistrate and it cannot be the discretion of Additional District Magistrate to order inquiry after inquiry even though the report submitted by the police was in favour of the petitioner that he had voluntarily got converted to Sanatana Hindu. He submits that there is no order by the Additional District Magistrate rejecting the inquiry report submitted by the police at any point of time and, therefore, ordering inquiry afresh and getting a fresh report, which is

mentioned in the order of Additional District Magistrate dated 06.12.2023 was absolutely an unwarranted exercise of power not vested with the District Magistrate under the relevant provisions of the Act.

12. Mr. Srivastava submitted that having found two reports dated 23.10.2023 and 06.12.2023 to be contradictory another inquiry was got conducted by the Additional District Magistrate (Administration), Prayagraj vide order dated 11.07.2024 pursuant to which the Additional Commissioner of Police, (Civil Lines), Prayagraj submitted another report on 23.07.2024. He submits that the report dated 23.07.2024, which has been referred to in the order impugned has been accepted by the Additional District Magistrate (Administration), Prayagraj on the ground that petitioner had misled and enticed away Ms. Aparna Bajpai and got the marriage solemnized with her.

13. It is argued by Mr. Srivastava that the Additional District Magistrate (Administration) was to verify the factum of conversion by a person seeking declaration and was not to go into the validity or otherwise correctness of marriage between the two persons and yet, finding arrived is that the marriage was solemnized by getting the woman unduly influenced, whereas there was no such petition before the Additional District Magistrate seeking declaration as to the validity of the marriage. It is on this basis of this last report that the Additional District Magistrate, it is contended, has proceeded to assume that the petitioner deliberately got himself converted in order to get married with the lady, whom he had got unduly influenced or she was otherwise enticed away. The transaction of an amount of Rs.1 lac in April, 2021 was taken as a stark evidence to prove that the conversion was bad and void.

14. Mr. Srivastava very vehemently urged that in a matter of conversion it is only to be seen as to whether procedure followed was *de hors* the procedure provided under Section 8 of the Act, 2021 so as to invite the provisions of Sub-Section 4 of Section 8 of the Act, 2021 and in the absence of there being any finding to that effect that any procedural flaw was there in performing the conversion by the petitioner, the Additional District Magistrate has completely misled herself in passing the order impugned.

15. Mr. Srivastava further pointed out that during the inquiry that was got conducted by the ACP (Civil Lines), Prayagraj when the statement of the Investigating Officer Mr. Munna Singh Kushwaha was recorded, he stated there clearly that he had got all the documents from the accused-petitioner but regarding certified copies thereof when the queries were made on the AERK portal of the District Magistrate by the police, certified copies could not be provided and that the petitioner had got obtained the interim protection of the High Court by filing a petition being Criminal Misc. Writ Petition No.6774 of 2023. It is submitted that it was for this very reason that certified copies were not made available to the Investigating Officer that prima facie allegations made against the petitioner were treated to be proved and accordingly, the charge-sheet was submitted on 30.09.2023. It is thus, contended that it is because a charge-sheet came to be filed as certified copies could not be obtained by the I.O., that reliance was placed by the ACP (Civil Lines), upon the charge-sheet in submitting report dated 23.07.2024 charging the petitioner of illegal conversion.

16. Mr. Srivastava submitted that merely because the charge-sheet was filed, petitioner could not have been held guilty of illegal conversion. It is submitted that when the charge-sheet itself has been submitted only for the reason that certified copies of the documents were not made available from the official portal of the District Magistrate, the correctness of it was yet to be tested in proceedings before the learned Magistrate and therefore, the Additional District Magistrate could not have placed absolute reliance upon the report submitted by the ACP (Civil Lines), Prayagraj based upon such a charge-sheet.

17. Learned counsel for the petitioner submits that Ms. Aparna Bajpai, who is present in person states that in June, 2023 she had appeared before the then Additional District Magistrate, Ms. Pooja Mishra and she was interrogated in the sense that questions were put to her, however, nothing has been discussed in the order of the Additional District Magistrate (Administration), Prayagraj, which has been passed by Ms. Pooja Mishra, herself.

18. Mr. Srivastava further submitted that though there were exactly no

contradictory police reports and if the Additional District Magistrate was required to issue directions after directions for getting a fresh report then it should have been also the duty of the Additional District Magistrate to have called the petitioner to appear before her to get himself examined, but no such exercise was conducted in the matter and for no justified reasons two reports submitted earlier by the police have been brushed aside.

19. Mr. Srivastava submits that the petitioner's wife being pregnant, after delivery there may be issues regarding parentage, officially to be recorded in the birth certificate and hence, an appropriate relief may be granted to the petitioner and for the arguments so advanced as noted above, the order of the Additional District Magistrate (Administration), Prayagraj deserves to be set-aside.

20. Meeting the submissions, learned Additional Chief Standing Counsel, Mr. Mukul Tripathi assisted by Ms. Shruti Malviya, learned State Law Officer submits that as far as the procedural part prescribed under Section 8 of the Act, 2021 is concerned that has been complied with and there cannot be any quarrel about it. However, as he admits, the controversy has arisen out of the two contradictory reports quite late submitted by the police in the matter though there were earlier two reports in favour of the petitioner.

21. Upon a pointed query being made as to whether the District Magistrate could have called for reports after reports once initially two reports were submitted, Mr. Tripathi submits that as far as Section 8(3) of the Act, 2021 is concerned, the District Magistrate is required only to hold an inquiry into the application made for getting valid declaration, at his end. On being not satisfied with the inquiry, it can always be a discretion of the administrative authority to have ordered for fresh inquiry. However, regarding the contention advanced as to whether the Additional District Magistrate could have gone into the question of validity of marriage in order to draw inference of any kind or otherwise to presume on that basis that the conversion was bad, Mr. Tripathi could not justify the order on that count. He submitted that the inquiry that has to be held by the District Magistrate is only to test the conversion whether

voluntarily or under undue influence and if the conversion is otherwise valid in terms of procedure adopted as prescribed under Section 8 and that Sub-Section 4 of the Act, 2021 is not attracted, the District Magistrate needs to pass a final positive declaratory order in the matter.

22. Having heard learned counsel for the respective parties and having perused the records, now we proceed to examine the contentions raised on behalf of the petitioner, basically the issue raised is, if there was a proper compliance made of Section 8 of the Act, 2021 and step by step procedure had been followed with and the inquiry report submitted by the police was in favour of the petitioner, then why the Additional District Magistrate would be directing for inquiry only upon First Information Report being filed by father of bride while he and his daughter were not in picture at the time of conversion. A further second aspect that is important to be considered is as to whether there was any material adduced before the Additional District Magistrate to draw any other inference or otherwise adverse inference against the petitioner, insofar as his claim for valid conversion and declaration to that effect as a Hindu convert or Sanatani convert is required.

23. We have examined the records and we have also discussed in earlier part of this order that the compliance of Section 8 (1) of the Act, 2021 was there by the petitioner by moving a declaration application on 12.01.2022 prior 60 days of conversion as is required and, therefore, conversion that took place on 14.03.2022 would automatically stand valid in terms of period of notice between application moved and date of actual conversion taking place. The priest, Satya Prakash also made an information to the District Magistrate on 11.02.2022, which also falls prior to 30 days of the conversion taking place on 14.03.2022. There is no dispute regarding a fact that notice was not as per Schedule I and II, nor do we find any recital there to that effect in the order impugned. As far as Section 8(1) and 8(2) of the Act, 2021 are concerned, from the order of the Additional District Magistrate impugned in this petition, it is reflected itself that the procedure was fully complied. The question, thereafter, arose for the Additional District Magistrate to have inquired into the matter for her satisfaction to exercise power.

24. The inquiry as is contemplated under Sub-Section 3 of Section 8 of the Act, 2021 through the police is with regard to real intention, purpose and cause of the proposed religious conversion. So the real intention is to be seen, the purpose is to be seen and the cause of the proposed religious conversion is to be seen. The intention has been shown by declaration dated 12.01.2022. The purpose was also shown that he wanted to practice Sanatan Rituals and practice and therefore, voluntarily wanted to convert himself. The cause of the proposed conversion was that he liked Sanatan Dharma and has bending towards it and so he intended to be a Sanatani. The first report that was submitted by the police namely of Sub-Inspector, Gyanesh Kumar very clearly stated that during the inquiry by the Sub-Inspector it was found that the applicant, Mohammad Ahashan, who was an Assistant Professor, had stated before him that he had voluntarily converted to Sanatana and had applied for the conversion at Arya Samaj Temple, Katra in terms of the then ordinance and that conversion took place in the presence of the witnesses, Shiv Pratap Tripathi and Jaismin Bano, by performing rituals by the priest and that he was residing in Flat No.22, Agnipath Colony, Prayagraj. Thus, finally the report was to the effect that petitioner got religious conversion in the presence of witnesses and that too voluntarily without there being any undue influence exercised upon him and after the conversion he has been given new name as "Anil Pandit". After this report was submitted in the year 2022 another report came to be submitted by the police upon the direction issued by the Additional District Magistrate on 23.10.2023. We have seen also the report submitted by the ACP (Civil Lines), Prayagraj dated 23.10.2023 in which it has come to be recorded very categorically thus:-

"इस प्रकार जांच से पाया गया है कि आवेदक उपरोक्त के द्वारा सनातन धर्म में स्वयं की आस्था व मर्जी से विधि विरुद्ध धर्म परिवर्तन प्रतिषेध अधिनियम, 2021 की धारा 08 की उपधारा 01 के तहत आवेदन कर बिना किसी दबाव / प्रलोभन के आर्यसमाज कटरा के पदाधिकारीगण के समक्ष धर्मपरिवर्तन की प्रक्रिया पूर्ण की गयी है।"

25. Thus, from the above, it is clear that the reports were there in favour of the petitioner, however, as the recitals contained in the order impugned clearly demonstrate that the Additional District Magistrate had gone into the question of FIR lodged in the matter and instead of getting the matter examined in the light of the provisions as contained in Section 8 of the

Act, 2021, proceeded to ask the police otherwise to submit report in the light of the criminal case registered against the petitioner. We do not appreciate this act and conduct of the Additional District Magistrate for the reason that the Additional District Magistrate had nothing to do with the criminal investigation matter forcing the police to again and again submit report taking notice of a criminal case registered against the applicant and this amounts to exercising a power not vested with the Additional District Magistrate under the Act. The manner in which the Investigating Officer submitted the charge-sheet itself showed that no intrinsic material was collected at all to frame the applicant into the charge of illegal conversion. The Additional District Magistrate had nothing to do with the other charges levelled in the FIR regarding the woman being lured or otherwise enticed away or unduly influenced for the purposes of marriage.

26. There is no adverse material available to record any finding adverse to the intention, purpose and cause of religious conversion except First Information Report and the charge-sheet submitted by police. However, we have noticed that even in the last police report there is nothing to state that petitioner got religious conversion under any influence.

27. We have noticed that the Additional District Magistrate as a matter of fact has got influenced more by the contents of the FIR and the charge-sheet submitted by the police in presuming or otherwise assuming also that there was illegal conversion. There is no reference of Ms. Aparna Bajpai ever appearing before the Additional District Magistrate in connection with the matter.

28. We have already recorded our interaction with Ms. Aparna Bajpai in which she very candidly accepted that there was a conversion and there was a valid marriage. Merely because certain monetary transactions have taken place between the friends in terms of money, this itself would not have been the ground to draw any inference that there was undue influence exercised by the petitioner upon Ms. Aparna Bajpai. This finding therefore, is absolutely misplaced and unsustainable. For this very reason also, the order impugned is rendered unsustainable.

29. There is also nothing on record to show that marriage between the petitioner and Ms. Aparna Bajpai was under challenge. Both petitioner and his wife Ms. Aparna Bajpai have deposed and have asserted in favour of their marriage in a joint affidavit. The registration of marriage is claimed to have got held up only for pendency of matter under the Act, 2021.

30. We are of the considered view that the Additional District Magistrate ought to have passed order on the basis of first two inquiry reports, instead of getting influenced by the subsequent police inquiry report, which was based only upon the FIR and the charge-sheet submitted by the police. It is a well settled law that mere filing of the charge-sheet does not result in indictment of the accused of the alleged offence. It is always a subject matter of trial after framing of the charges. Therefore, even a prima facie view taken on the basis of charge-sheet would be erroneous.

31. Since it is a sensitive matter, where two well educated persons are before us, one is Assistant Professor in a constituent Institute of the Allahabad University, a premium Institution of the Country, which is a Central University and the wife is a Lecturer of English in a recognized Intermediate College of Ballia, we consider it appropriate at this stage for the Additional District Magistrate to pass order afresh taking pragmatic view of the matter in the light of first two reports that have been discussed above in our order and also in the light of our reference made during interaction with the petitioner as well as Ms. Aparna Bajpai as quoted above in earlier part of this judgement. The Additional District Magistrate, Prayagraj would be passing order afresh within three weeks from the today and in any case by 26th May, 2026.

32. Learned Additional Chief Standing Counsel shall also intimate this order to the Additional District Magistrate, Prayagraj within a week from today.

33. In the circumstances, therefore, while we keep this petition pending to await decision of the Additional District Magistrate, Prayagraj in the matter, we are putting the order impugned dated 09.08.2024 in abeyance to abide by the fresh order to be passed by the Additional District

Magistrate, Prayagraj as directed hereinabove. Petitioner is at liberty to live his married life with Ms. Archana Bajpai with dignity and police shall not be interfering in their married life.

34. List this petition on 27.05.2026 .

(Indrajeet Shukla,J.) (Ajit Kumar,J.)

May 5, 2026
S.P.