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15/11/21

Genl.

OFFICE OF THE PRINCIPAL DISTRICT & SESSIONS JUDGE (HQs): DELHI

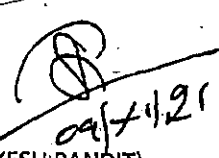
No. 35649-35749 /Genl./Misc/2021

Dated, Delhi the 09 NOV 2021

Sub :- Order passed by Special Disciplinary committee of Bar Council of Delhi in complaint made by Mr. Sohan Singh Tomar @ Sonu Against Mr. Iqbal Malik, Advocate.

Forwarded a copy of the Order passed by Special Disciplinary committee of Bar Council of Delhi in complaint made by Mr. Sohan Singh Tomar @ Sonu Against Mr. Iqbal Malik, Advocate (Copy of the order enclosed), to be circulated for information as requested by the Assistant Registrar (Genl. Admn.1), Hon'ble High Court of Delhi, New Delhi to :-

1. All the Ld. Principal District & Sessions Judges, Delhi/New Delhi (except Central-District) with the request to circulate the same amongst all the Judicial Officers posted under their kind control. **NORTH**
2. The Ld. Principal Judge, Family Courts (HQs), Dwarka courts, Delhi with the request to circulate the same amongst the Judicial officers under your Control.
3. All the Ld. Judicial Officers posted in Central-District, Tis Hazari Courts Delhi.
4. The Chairman, Website Committee, Tis Hazari Courts, Delhi With the request to upload the same on the Website of Delhi District Courts as per rule.
5. Dealing official for uploading the same on Centralized Website through LAYERS as per rules.
6. P.S. to Ld. Principal District & Sessions Judges (HQs), Delhi for information.


(RAKESH PANDIT)

Officer In-Charge, General Branch, Central/
Additional District & Sessions Judge,
Tis Hazari Courts Delhi

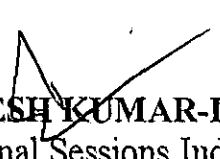
Encl: as above

**OFFICE OF THE PRINCIPAL DISTRICT & SESSIONS JUDGE,
ROHINI COURTS**

No. 389(own) Genl.I/N-W & N/Rohini/2021 Delhi, dated the 18/11/2021

Copy forwarded through electronic mode for information to :-

1. All the Ld. Judicial Officers (DHJS and DJS), North-West & North District, Rohini Courts, Delhi.
2. The Personal Office, Ld. Principal District & Sessions Judge, North-West & North District, Rohini Courts, Delhi.
3. The Dealing Official, Computer Branch, Rohini Courts, Delhi for uploading the same on WEBSITE.
4. The Dealing Official, R & I Branch, Rohini Courts, Delhi for uploading the same on LAYERS.


(RAKESH KUMAR-IV)
Additional Sessions Judge
Officer Incharge, General Branch,
Rohini Courts Complex, Delhi.



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(Statutory Body Constituted under the Advocates Act, 1961)
2/6, Siri Fort Institutional Area, Khel Gaon Marg, New Delhi-110 049

Ref. No. : 288/Gen/SF/2021

07.10.2021

Dated :

The Registrar General
Delhi High Court,
New Delhi-110003.

Sub : Order passed by Special Disciplinary Committee
of Bar Council of Delhi, in Complaint made by
Mr. Sohan Singh Tomar @ Sonu against Mr. Iqbal Malik,
Advocate (D/759/2003)

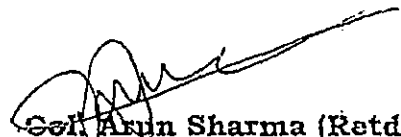
Sir,

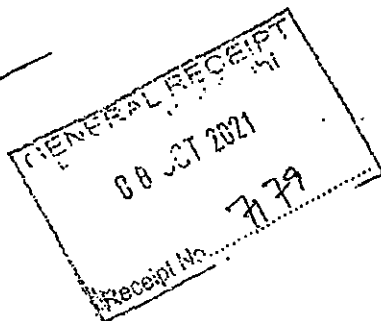
Please find enclosed herewith the copy of the order passed by the
Special Disciplinary Committee of Bar Council of Delhi in the above
matter, which is of public importance.

The order may kindly be put up to Hon'ble The Chief Justice for further
necessary action as deemed fit, as requested in the order, please.

Thanking you,

Yours sincerely,


Col. Arun Sharma (Retd.)
Secretary



GENERAL BRANCH
Diary No. 8394
Date 21/10/2021
101-7



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BAR COUNCIL OF DELHI

(Statutory Body Constituted under the Advocates Act, 1961)
2/6, Siri Fort Institutional Area, Khel Gaon Marg, New Delhi-110 049

Ref. No. :

Dated :

complaint to SHO, Pandav Nagar, who informed the complainant that Aarti, his daughter, has married a Muslim boy.

He annexed alongwith the complaint, documents namely (1) Nikahnama/Marriage Certificate, (2) Declaration and undertaking given and filled by girl/bride for Nikah/Muslim Marriage, (3) Declaration/undertaking on a printed performa on the top of which "AL NIKAH (Regd.) No.668/2020" is mentioned, (4) Conversion Certificate to Islam by AL NIKAH TRUST (Regd.) No. 668/2020 and typed declaration in English. It is further alleged that according to the details given in the Nikahnama, the place of Nikah is F-322, Karkardooma, 3rd Floor, Mazarwali Masjid and that he had gone to Karkardooma Court to personally verify and found that the said chamber F-322 belongs to Mr. Iqbal Malik, Advocate who is using his chamber for performing of Nikah, which is not part of his profession as an Advocate. He also alleged that his chamber is being used for antisocial and illegal conversion of religion and performing of Nikah. Accordingly, he prayed for cancellation of his licence to practice as an advocate also cancellation of chamber's allotment.



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Ref. No. :

Dated :

In the matter of : Complaint by Mr. Sohan Singh Tomar @
Sonu against Mr. Iqbal Malik, Advocate (D/759/2003)

ORDER

Reserved on 20.09.2021

Pronounced on 06.10.2021

In these disciplinary proceedings, we are dealing with a case having peculiar facts not involving professional misconduct, but use of Chamber No. F-322, 3rd Floor, Karkardooma Court premises, for religious conversion and performing of Nikah by the respondent advocate, as alleged by the complainant whether would constitute as "other misconduct" within the meaning of Section 35 of Advocates Act, 1961.

Facts leading to this case are that :

One Sh. Sohan Singh Tomar @ Sonu made a complaint to State Bar Council of Delhi, dated 25.06.2021 that his daughter namely Ms. Aarti has left the house on 28.05.2021 and on enquiry, he found that one Kamran Khan, has allured her. He made a

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Notice was sent to Mr. Iqbal Malik, Advocate, who filed his reply to the said complaint. In his reply, he has denied all the allegations in toto label by the complainant against him, he admitted that he is allottee of ½ Chamber No.F-322, 3rd Floor, Karkardooma Courts, Delhi. He further stated that the daughter of the complainant is major and she has converted her religion without any force or pressure and also solemnized marriage with one Kaamran with her own free will and consent. He, in para 5 of the reply, stated that no conversion has taken place in Chamber No. F-322, Karkardooma Courts, Delhi and as per him, the conversion certificate dated 02.06.2021, is executed at Seat No.F-73, Karkardooma Courts, Delhi and further that the Nikahnama is prepared at Mazarwali Masjid, Near Karkardooma Court. He tried to explain that in the Nikahnama, the word "Near" was not mentioned inadvertently. He further stated that the daughter of the complainant had stated that she solemnized the marriage with her own will and sought protection from the Hon'ble High Court of Delhi by filing a writ petition. In para 10 of the reply, he stated that the "Nikahnama", as well as, conversion certificate were not issued by him nor are in his handwriting. He is also not a witness thereof. He also stated that he cannot read or write Urdu.

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Dated :

In para 12 of the reply, he has stated that no Masjid, Madarsa or other religious institution is registered or functions from his chamber. He also stated that he has not authored the alleged conversion certificate or Nikahnama nor was it executed in his presence. He however, in para 15, stated that "Moreover alleged trust never ever exist in his name or his address or he is/was connected directly or indirectly whatsoever manner with alleged trust or Qazi. Merely because the alleged Nikahnama contain his chamber address doesn't mean he is involved in controversy in any manner".

He also relied on the statement under section 164 Cr.P.C. made by the daughter of the complainant. He stated that it was only on 07.06.2021, Kamran Khan came alongwith wife Smt. Arshi (Aarti), daughter of Sh. Sohan Singh Tomar, to his chamber No. F-322, Karkardooma Court Complex and apprised him of the fact that on 02.06.2021, Smt. Arshi @ Aarti, converted to Muslim from Hindu religion where-after, on 03.06.2020, Nikhah was performed according to Muslim rites and customs with Kamran Khan at Masjid mazarwali near Karkardooma court. He further stated that both of them handed over Nikahnama, conversation certificate and other documents for filing the writ petition before the Hon'ble High Court of Delhi.

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Ref. No. :

Dated :

He further gave an undertaking to the Bar Council of Delhi to maintain dignity and decorum of the legal profession/fraternity in future and despite best efforts, if anything has happened wrong, he tendered unconditional apology.

The complainant vide his application alongwith affidavit dated 29.07.2021 filed before the Disciplinary Committee had stated that Qazi Mohd. Akbar Dehlvi sits on Seat No.F-73, 1st Floor, F-Block and he conducts conversion of religion and also Nikah in illegal manner. This seat has been allotted to in the name of Manoj Kumar Sharma, Advocate and notice was also sent to him. In his reply, Manoj Kumar Sharma, Advocate (D/15-A/2002) had stated that this seat has been allotted to him and he is a practicing lawyer. He further stated that he has not allowed anyone to use his above seat No. F-73, F-Block, 1st Floor, Karkardooma Courts at any point of time for any activities like Nikah or conversion activities and that he alone uses this seat and on 06.07.2020 when he came to know from the newspaper report in Dainik Jagaran that one Mohd. Akbar Dehlvi had prepared a seal by mentioning his seat No. F-73, which was without his knowledge and consent. He sent a complaint to SHO,

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P.S. Farsh Bazar, ACP Vivek Vihar and ACP Shahdara by courier on 07.07.2021. The copies of courier slips have also been annexed with the reply. He also stated that he has no connection with Mohd. Akbar Dehlvi and wanted to serve the above notice to him also, but could not do so.

Parties were directed to produce evidence, if any, during the proceeding in support of their respective claims.

During the course of trial, the complainant gave his evidence by way of an affidavit and recorded further statement on 29.07.2021.

Complainant's evidence :

Statement of Sohan Singh Tomar @ Sonu, S/o Sh. Bheem Singh Tomar, aged 40 years, Agriculturist, R/o 19-A, Patparganj, Delhi.

On S.A.

I have filed the present application/complaint accompanied by list of documents and affidavit. The contents of the complaint are true to best of my knowledge and may be treated as part of my

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Dated :

affidavit. My affidavit to this effect bears my signature, which is duly attested and exhibited as CW-1/1.

The original complaint dated 25.06.2021 as filed before the Council bears my signatures and identify the same. The same is exhibit CW-1/2.

I had not received any copy of the petition filed by the respondent in Delhi High Court. Again said : I have received the copy of the petition filed by my daughter in Delhi High Court regarding her marriage, which is also placed on record, collectively marked and exhibited as exhibit CW-1/3.

I do not want to examine any witness as my wife will also depose on the same facts, which I have deposed.

I have also filed response to the reply filed by the respondent, which bears my signature. The same is exhibit CW-1/4.

R.O. & C.
Sd/-
(Sohan Singh Tomar @ Sonu)
Complainant

Deferred for cross examination.

Cross examination of Mr. Sohan Singh Tomar, Complainant by
Mr. M. T. Malik, Advocate on behalf of the respondent.

W

W

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Dated :

On S.A.

Tendered for cross examination.

~~XXXX~~ by the Counsel for the Respondent :

I have studied upto 8th or 9th class.

I do not remember the date of birth of my daughter.

My daughter is major. I do not remember when I came to know that my daughter has married. However, I came to know through Delhi Police that my daughter got married.

I came to know on enquiries from police that the Nikhah of my daughter was done at the chamber of the respondent in Karkardooma Courts.

Q. What evidence do you have that Chamber No. F-322 was used as a Masjid for marriage.

Ans. I was told by police that there is a Masjid at Chamber No.322, where my daughter has got married. I do not remember the name of the police officer who told me about this.

At this stage, the learned counsel for respondent is told that he can only confine his cross examination to the limited issue about

W

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Dated :

the chamber being used as a Masjid for Nikhah of the daughter of the complainant.

It is incorrect to suggest that the respondent has used this chamber for legal advice and legal practice only.

It is incorrect to suggest that I have filed a false complaint.

I do not wish to examine any other witness.

At this stage, respondent was also asked if he wants to ask any question, to which he says 'No'

Complainant is discharged.

R.O. & C.

Sd/-
(Sohan Singh Tomar @ Sonu)
Complainant

Evidence by Respondent :

Statement of Mr. Iqbal Malik, Advocate/Respondent Chamber No:
F-322, Karkardooma Courts Complex, Shahdara, Delhi-110032.

On S.A.

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Ref. No. :

Dated :

I have received the complaint as filed by the complainant Mr. Sohan Singh Tomar and I have read the same. I had filed the reply dated 11.07.2021 to the complaint, which was drafted on my instructions and I had signed it, which may be read as part and parcel of my examination in chief. I had also annexed with the reply, the order sheet of Ld. Delhi High Court in Writ Petition (Crl.) No.1139/2021. My reply consists of 20 pages. I wish to examine the witnesses mentioned in the list of witnesses, which is signed by me.

Tendered for cross examination.

Examination by the Committee :

It is correct that Writ Petition (Crl.) No.1139/2021 & Crl. M.A. No.9548/2021 titled as Arshi @ Aarti & Anr. Vs. The State of NCT of Delhi & Ors. was filed through me and in the Index, I have mentioned Chamber No. F-322, Karkardooma, Delhi-32. Volunteered : However, the present petition was drafted and filed by my colleague Mr. M.A. Inayati. However, on Vakalatnama, his signatures are not there nor on the petition. Mr. Sohan Singh was made respondent and relief sought was for protection from any physical harm or otherwise from the respondent No.4, father of petitioner No.1. I do not remember if Nikhahnama of the marriage of the petitioners was also filed alongwith the writ

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Ref. No. :

Dated :

petition filed. It is correct that Nikhahnama certifying the marriage of petitioners was also annexed as Annexure P-2 at page 22 of the writ petition. It is correct that a translation of stamp of Quazi was also annexed with the petition. It is correct that it is mentioned that F-322, Karkardooma, F-Block, 3rd Floor, Near Mazarwali Mazjid, as a place of Nikhah. It is correct that the name of Quazi as mentioned in the Nikahnama was Mohd. Akbar Dehlvi, F-73, Karkardooma Courts, Delhi. I have seen order dated 25.06.2021 passed by Hon'ble Justice Jasmeet Singh, copy of which filed alongwith my reply in Writ Petition (Crl.) No.1139/2021. My attendance alongwith Mr. M.A. Inayati has been marked on behalf of Arshi @ Aarti and others, in which directions were issued that respondent will ensure life and liberty of petitioner and do not interfere in the process of law. I was supplied a copy of the list of the certificates of Nikhahnama, which are available in the Bar Council office. I have no concern with any of these Nikhahnamas whatsoever. Not even single document bears my signature and my appearance has not been marked in any of the documents. I am not aware as to where these Nikhahs were held at which place or by whom. However, the name of Quazi as mentioned in my petition is the same in all these Nikhahnamas i.e. Mohd. Akbar Dehlvi, F-73, Karkardooma Courts. As my information goes, a lawyer cannot be a certified Quazi and he cannot perform Nikah. It is correct that chamber or

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Ref. No. :

Dated :

any seat allotted in any court complexes can only be used for legal practice, consultation and study etc. However, inadvertently, I have not verified as to how a Quazi has given his address as F-73, Karkardooma Courts. Volunteered : I have ignorantly not verified the same. However, later-on I have filed a complaint regarding use of this chamber/seat by a Quazi to the Bar Association of Karkardooma Courts. I have no lena-dena or dealings as far as 302 Nikahnamas as has been inspected by me, in whatever way. Since the petition was drafted by my colleague, so, I cannot say, how the place of Nikahnama is mentioned as F-32, Karkardooma, F-Block, 3rd Floor, and I do not know Urdu, therefore, I had not read the Nikahnama.

I have to state that I have used my chamber only for the purposes of legal work and consultation. I have never used my chamber as Masjid in any way whatsoever. I have filed the list of witnesses only to establish that I have never used my chamber for any other purpose except legal work. Since I have already stated this fact, I do not wish to examine any witness, and therefore, they may be treated as dropped.

Re-examination by the counsel for the respondent :

The Counsel for respondent says that he do not wish to ask any further question.



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~~xxxxxx~~ by the complainant's counsel :

It is incorrect that a translated copy as filed in High Court was translated by me. and not by my colleague as stated by me.

It is correct that the documents, which were filed alongwith the writ were provided by me, however, the writ was filed by my colleague Mr.M.A. Inayati.

No other question was put to the respondent. He is discharged.

R.O. & C.

Sd/-
(Iqbal Malik)
Advocate/Respondent

During the course of proceedings, respondent Sh. Iqbal Malik also stated that the conversion certificate was executed at Seat No. F-73, Karkardooma Court, Delhi, which has been allotted to Sh.Manoj Kumar Sharma, Advocate.

Statement of Sh. Manoj Kumar Sharma :

Sh. Manoj Kumar Sharma, Advocate, Seat No. F-73, F-Block, First Floor, Karkardooma Courts, Delhi-110032, stated as under:

On S.A.

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Ref. No. :

Dated :

I have submitted my reply pursuant to the notice received, which may be treated as part of my evidence. I do not wish to lead any other evidence nor do I wish to produce any witness on my behalf.

Tendered for cross-examination :

~~xxxxxx~~ by the Counsel for the complainant

Seat No.F-73 was allotted to me by the Karkardooma Court Bar Association and the same was occupied by me since 2006.

I know Mr. Mohd. Akbar Dehlvi, Qazi. In 2008, father of Mohd. Akbar Dehlvi came to me and wanted to disinherit him and therefore, acting on his instructions, I made publication in this regard and because of that reason, I know him. In that connection, this Qazi came to me along with his father and both of them requested that a settlement may be drafted between both of us.

After 2008, Qazi never met me nor he visited my seat ever. I came to know before the Council that this Qazi has used my seat number for at least 300 cases, where he performed marriages and gave my seat number as the place of marriage. However, I do not know this fact.



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Ref. No. :

Dated :

It is incorrect to suggest that Quazi used to sit with my permission on the seat and used the seat number for performing marriages with my consent.

It is further wrong to suggest that he used to share his fee with me, which he used to charge with the party.

As soon as I came to know that he illegally used my seat number, I have made a complaint to the District & Sessions Judge, copy of which I have supplied to the Bar Association also. I will submit the copy of the same to the complainant as well as to the Council.

It is incorrect that I have deposed falsely.

Respondent Sh. Iqbal Malik, Advocate do not wish to ask any question to this witness

R.O. & C.

Sd/-
(Manoj Kumar Sharma)
Respondent No.2

W.P. (Crl.) No.1139/2021 : Filed by daughter of Complainant

We may note that a writ petition being W.P. (Crl.) No.1139/2021 was filed through Advocate Iqbal Malik. According to the date,

W
B.O. : 1-F, Lawyers' Chambers, High Court of Delhi, New Delhi-110 003 Ph: 23387701



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2/6, Siri Fort Institutional Area, Khel Gaon Marg, New Delhi-110 049

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shown on the petition is 22.06.2021 and the certificates filed as annexures with the writ petition, the place of Nikah shown as F-322, 3rd Floor, Karkardooma, Mazarwali Masjid, Delhi. In the stamp (seal) of Qazi, name is Mohd. Akbar Dehlvi and place of Nikhah is shown as "F-322, Karkardooma, F-Block, Third Floor, Near Mazarwali Masjid". However, in the marriage certificate, the address, place of Nikah is shown as F-322, Karkardooma, Third Floor, Mazarwali Masjid, Delhi. The word "Near" is not there.

Both the parties were given full opportunity to address their arguments in support of their case and the orders were reserved on 20.09.2021.

In these proceedings, our main concern is to ascertain whether the conversion of religion by Ms. Aarti from Hindu to Muslim and performing of Nikah has taken place in the Chamber No. F-322, 3rd Floor, Karkardooma Courts and Seat No.F-73, F-Block, First Floor, Karkardooma and whether such activities could at all be permissible by an advocate in the chamber or seat or at any other place, within the precincts of the District Court, Karkardooma, Delhi.

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The complainant has made the allegations that his daughter was forced to convert the religion and also marry. In support of his allegations, he made a statement of oath and also filed the translation of portion of FIR where he alleged that he got a whatsapp call from his daughter Aarti on 14.06.2021 that she was sitting in a Car with Kamran and three other persons and she was crying and was saying "Mummy Papa save me, these people will kill me". He also stated that whatsapp video call confirmed that Kamran and three other persons have abducted his daughter. However, no such video was filed in these proceedings. In any case, so far as the question of kidnapping by use of force is concerned, the same is primarily a matter of concern of the police and not for us to go into.

The complainant further alleged that the chamber of Mr. Iqbal Malik, Advocate has become a den for antisocial and illegal activities and according to the complainant, the chamber of an advocate cannot be used for conversion of religion or performing of Nikah, which is not part of the permissible area for the legal profession.



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The sum and substance of the allegations in the complaint that the place of Nikah (marriage) F-322, Karkardooma, 3rd Floor, Mazarwali Masjid, Karkardooma Court and the lawyer's chamber could not be used for the said purpose. He has also alleged that the said chamber belongs to Mr. Iqbal Malik and it has become a den for antisocial and illegal activities and he involved in such activities. According to his information, the chamber is used for conversion of religion and performing of Nikah, which is not permissible.

He also alleged that his daughter Aarti left his home on 28.05.2021 and he came to know that she has been allured by one Kamran Khan with whom she has gone and have performed Nikah after conversion of religion. In so far as the conversion of religion and the performing of Nikah whether were with her free will or consent or by use of force, is not an issue before us to be gone into nor there is any evidence of conversion of religion and performing of Nikah forcibly in the said chamber or the seat, as such these allegations, as far as these pleadings is concerned are not substantiated. Even from conversion certificate to Islam issued by AL NIKAH TRUST (Regd.) No.668/2020 and a declaration in the printed form, alongwith the Nikahnama filed in these proceedings, the validity has neither been questioned nor

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there are allegations that any pressure or coercive method was used in the chamber No.F-322, Karkardooma Courts for execution of these documents.

Admittedly, she was a major and both of them namely Arshi @ Aarti and Kamran were legally entitled to marry each other. The legal position with regard to interfaith marriage has been decided by the Hon'ble The Hon'ble Apex Court in approving interfaith marriages.

We place reliance on a judgement passed by the Hon'ble Supreme Court of India in case titled as Lata Singh Vs. State of UP (AIR 2006 SC 2522), wherein it is observed that :

"This is a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-caste or inter-religious marriage the maximum they can do is that they can cut off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or

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inter- religious marriage. We, therefore, direct that the administration/police authorities throughout the country will see to it that if any boy or girl who is a major undergoes inter-caste or inter-religious marriage with a woman or man who is a major, the couple are not harassed by any one nor subjected to threats or acts of violence, and anyone who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law."

As such, in the absence of any evidence of use of pressure or coercion, by Iqbal Malik in his Chamber No. F-322, Karkardooma Court is not established. The limited issue that remains to be considered is whether the conversion certificate and Nikah was performed in the chamber of Iqbal Malik i.e. F-322, Karkardooma Courts and whether he is indulging in such antisocial or illegal activities in his chamber.

No doubt, from the evidence and the documents filed alongwith the complaint as also the bunch of nearly 342 sets (forwarded by Shahdara Bar Association) of identical documents regarding

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conversion certificate and performing of Nikah with the same address namely Seat No. F-73, F-Block, First Floor, Karkardooma Courts, filed during the proceedings, it is clear that the seat No. F-73, F-Block, First Floor, Karkardooma Court, which found mentioned in the documents produced, has some connection with the activities of conversion of religion and performing of Nikah within the court premises. Both Mr. Iqbal Malik and Mr. Manoj Kumar Sharma have denied having any connection with the conversion of religion or performing of Nikah in their chamber or at the seat. No doubt, they have not signed nor witness to the conversion of religion from Hindu to Muslim or Muslim to Hindu and/or the performing of Nikah, but it is unbelievable that they had no knowledge or information about the fact that the Seat No. F-73, 1st Floor, Karkardooma is being mentioned in the Nikahnama/Marriage certificate, more so, when the large number of certificates of Nikahnama have been issued and produced in these proceedings. As such, they cannot escape the responsibility completely and wash their hands off. It is correct that the complainant could not establish the other misconduct of the respondent the complainant totally failed to produce any evidence by way of oral or documentary before the committee the best witness could have been the girl or the boy whose Nikah was performed, unfortunately both the party failed to produce the couple before the committee per contra the girl has send one

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representation to the committee and denying any conversion or performing the nikah in the court premises i.e chamber F 322 and seat no F 73. Both parties didn't relied upon these documents filed by the girl Arti@Arshi and these documents could not be exhibited on the record even, however this committee can consider these documents for the proper adjudication of the allegation, therefore, At the same time, since there is no evidence of their involvement, we may take a lighter view to issue warning to both of them not to use or allow chamber or seat for any such purpose. Mr. Iqbal Malik has already given an undertaking to that effect and Sh. Manoj Kumar Sharma, undertook during the proceeding.

We feel more concerned about the use of court premises for such religious activities of conversion of religion and performing of Nikah ceremonies. The court premises have its own sanctity established under the Constitution of India performing public functions in discharge of administration of justice, as such, no part thereof can be used for any such religious activities or performance of ceremonies. The Courts being a Sentinel of justice delivery system, is a temple of justice and not a Mosque, Church or temple for performance of religious functions or activities.

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We are fortified by the directions issued by the Division Bench of Allahabad High Court on this issue in the case of Hindu Front for Justice And Ors. Vs. Union of India and Ors. (Manu/UP/0523/2017). The relevant portion is reproduced below:

"7. The places of worship that belong to any particular religion or community can be a matter of choice of any individual or group or community but this freedom also has to be exercised at a place where such a choice can be exercised by way of a personal right being asserted or under the protection of the State. Any citizen in his own house or over his own property can define his place of worship subject to any regulatory laws being made in this regard but such a right cannot be acknowledged as a right to be asserted at a public place that has been established to be utilized by every member of the public at large for a particular purpose. Thus a 'public street' or a 'public road' cannot be claimed to be a place of worship as a matter of fundamental right, even though such places by regulation of the State are allowed to be utilized during religious celebrations. A public office where public duties are being performed by a constitutional functionary or a public servant cannot be allowed to be converted as a place of worship for a particular community or an individual as that would alter the very purpose for which an office or place has been set-up.



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9. We may now turn towards the purpose for which this building has been constructed. Let us not forget that the High Court in a State under the Constitution is the main pillar of the Judiciary in the State and created under the Constitution that has been enforced on 26th January, 1950. The High Court's physical existence and creation prior to the advent of the Constitution has been continued under the Constitution but is now governed by the provisions of the Constitution. The Constitution is a living document of a Socialist Secular Sovereign Democratic Republic. The morals of law and justice are derived from various sources, most potent being that from different religions, variety of cultures, philosophy and civilizations from across the Globe. This rainbow source has influenced the framing of laws that govern society including our own Constitution. The purpose of the High Court is to act as a guardian of the Constitution and dispense justice in all matters of disputes within the jurisdiction defined under the Constitution and the laws that govern the administration of justice. The purpose of the High Court therefore is not the performance of a particular religious activity. The High Court is a Temple of Justice and its religion is to dispense justice where the litigants' interest is supreme. The duty conferred on the High Court is to dispense justice in accordance with law and to enforce and protect the rights guaranteed under the Constitution apart from dispensing of adversarial litigation. It may also have to decide disputes arising out of customs, religious practices, and all affiliated disputes relating to religion. Thus, in sum and substance, the premises of the High

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Court has to be looked upon as a Temple of Justice and not as a place of religious worship. The precincts of this institution should therefore not reflect a partisan flavour but should be an open impartial platform transcending all barriers including the sense of confining the individual or a community to exercise choice of a public place for private worship. The premise of this institution should not be perceived or reflect an image of the existence of any division of interests or expression of mere choices. The portals of this Court should reflect the goal of achieving a common objective, that of establishing, protecting and enforcing the rule of law by dispensing justice. The priests, the preachers and the devotees of this temple should all strive to usher a sense of confidence and faith in the entire society that it stands in its majesty and magnificence to fulfill the ambitions of our forefathers, constitution framers and forerunners of independence and builders of this nation who dreamt of a great nation. All concerned with this institution have to have a common religion, that to practice, promote and deliver justice according to law as this institution stands for the citizens of the State who by their choice and declaration in the Constitution have enjoined upon the legal fraternity to perform their duties effectively, devotedly and firmly for their common cause and for no other. This revered Temple is dedicated to the cause of Justice. This is in no way in conflict with the fulfillment of individual choices or choices of communities who are free to assert their rights subject to what has been observed above.

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10. In this background, we are of the opinion that providing a separate place for the purpose of a religious practice of any particular community would not be in conformity with the intent, purpose and ethos of such an institution envisaged and established under the Constitution of India.

A similar view was taken by Ms. Justice Ruma Pal in the case of *T.M.A. Pai Foundation v. State of Karnataka, (2002) 8 SCC 481 : 2002 SCC OnLine SC 1036 at page 651*, observed that :

Article 30 and secularism

331. The word "secular" is commonly understood in contradistinction to the word "religious". The political philosophy of a secular government has been developed in the West in the historical context of the pre-eminence of the established Church and the exercise of power by it over society and its institutions. With the burgeoning presence of diverse religious groups and the growth of liberal and democratic ideas, religious intolerance and the attendant violence and persecution of "non-believers" was replaced by a growing awareness of the right of the individual to profession of faith, or non-profession of any faith. The democratic State gradually replaced and marginalised the influence of the Church. But the meaning of the word "secular State" in its political context can and has assumed different meanings in different countries, depending broadly on historical and social circumstances, the political

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philosophy and the felt needs of a particular country. In one country, secularism may mean an actively negative attitude to all religions and religious institutions; in another it may mean a strict "wall of separation" between the State and religion and religious institutions. In India the State is secular in that there is no official religion. India is not a theocratic State. However, the Constitution does envisage the involvement of the State in matters associated with religion and religious institutions, and even indeed with the practice, profession and propagation of religion in its most limited and distilled meaning.

Further Justice D.Y. Chandrachud in the case of **Abhiram Singh v. C.D. Commachen, (2017) 2 SCC 629 : (2017) 2 SCC (Civ) 68 : 2017 SCC OnLine SC 9 at page 699**, observed that

111. What then, is the rationale for Section 123(3) not to advert to the religion, caste, community or language of the voter as a corrupt practice? Our Constitution recognises the broad diversity of India and, as a political document, seeks to foster a sense of inclusion. It seeks to weld a nation where its citizens practise different religions, speak varieties of languages, belong to various castes and are of different communities into the concept of one nationhood. Yet, the Constitution, in doing so, recognises the position of religion, caste, language and gender in the social life of the nation. Individual histories both of citizens and collective groups in our society are associated through the ages with histories of discrimination and injustice on the basis of these defining characteristics. In numerous provisions, the Constitution has sought to preserve a delicate balance between individual liberty and the need to remedy these histories of injustice founded upon immutable characteristics

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such as of religion, race, caste and language. The integrity of the nation is based on a sense of common citizenship. While establishing that notion, the Constitution is not oblivious of history or to the real injustices which have been perpetrated against large segments of the population on grounds of religion, race, caste and language. The Indian State has no religion nor does the Constitution recognise any religion as a religion of the State. India is not a theocratic State but a secular nation in which there is a respect for and acceptance of the equality between religions. Yet, the Constitution does not display an indifference to issues of religion, caste or language. On the contrary, they are crucial to maintaining a stable balance in the governance of the nation.

The Hon'ble Apex Court has repeatedly held that a State has no official religion and India is not a theocratic State, as such, use of any area within the court premises cannot be used for any such purpose.

It is our duty and responsibility to ensure that the advocates in discharge of their professional duties and responsibilities do not indulge in such activities more so within their chamber, corridor or any other area within the precincts of the Court premises for any such religious activity program or function. It may not constitute professional misconduct, but would certainly be a



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misconduct within the meaning of section 35 of the Advocates Act, 1961 to be addressed by the State Bar Council.

We may note that if such activities are not nipped at the bud, the courts as well the legal profession will lose its sanctity, dignity and credibility and would turn into a place for rampant religious activities and programs, which cannot be permitted, as such, while so far as two advocates are concerned, suffice, would be to issue the necessary warning to them and at the same time, we make it clear that so far as the Bar Associations and Advocates are concerned, it cannot conduct any religious functions or programs/activities in the chambers corridors, parking or any other place within the precincts of court premises.

In view of the present facts and circumstances, there is no evidence on record to establish the other misconduct of Respondents. We have no option except to dismiss the complaint, therefore, the complaint is hereby dismissed and needless to say order dated 05.07.2021 for suspension of Enrolment and Sealing of Chamber is withdrawn.

We would also request the Hon'ble Chief Justice of High Court of Delhi to consider and issue necessary orders in this regard

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directing the concerned District Judges to ensure the compliance
of these directions.

Copy be sent to Registrar General, Delhi High Court.


(Himal Akhtar) 6/10/21

Vice-Chairman, BCD


(K.C. Mittal)

Member, BCD
Ex. Chairman, BCD


(Ajayinder Sangwan)

Hony. Secretary, BCD

Members, Special Disciplinary Committee

This Judgment/Order dated 06.10.2021 contain 30 Pages in total.