

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**(i) Criminal Misc.No.M-1828 of 2015 (O&M)**  
**Date of decision: 06<sup>th</sup> October, 2015**

Charanjit Kaur and others

...Petitioners

Versus

State of Punjab and another

...Respondents

**(ii) Criminal Misc.No.M-2797 of 2015 (O&M)**

Pargat Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr. Sukhdeep Parmar, Advocate,  
for the petitioners in Criminal Misc.No.M-1828 of 2015.

Mr. H.S.Bal, Advocate,  
for Mr. B.S.Sra, Advocate,  
for the petitioner in Criminal Misc.No.M-2797 of 2015.

Mr. B.S.Bhullar, AAG, Punjab,  
for the respondent(s)-State.

Mr. Swapan Dhir, Advocate,  
for respondent No.2 in both the petitions.

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**INDERJIT SINGH, J.**

This order shall dispose of Criminal Misc.No.M-1828 of 2015 filed by petitioners Charanjit Kaur, Kamaljit Kaur and Mehar Singh and Criminal Misc.No.M-2797 of 2015 (O&M), filed by petitioner Pargat Singh against respondents State of Punjab etc. for quashing of complaint No.14 dated 31.07.2013, titled as Gagandeep

Kaur versus Pargat Singh and others, under Sections 420, 467, 468, 471, 363, 328, 354, 506, 120-B, 34 IPC, the summoning order dated 01.11.2014 and all subsequent proceedings arising therefrom qua them.

As per record, Gagandeep Kaur complainant filed a complaint against all the petitioners-accused (hereinreferred as 'the accused') under Sections 420, 467, 468, 471, 363, 328, 354, 506, 120-B, 34 IPC. It is mainly stated in the complaint that family of the complainant was known to the accused. On 13.12.2011, complainant was unwell and accused Pargat Singh, Charanjit Kaur and Kamaljit Kaur came to her house for knowing her well being. Finding nobody in the house of complainant, accused Charanjit Kaur and Kamaljit Kaur convinced the complainant to accompany them to a doctor at Khanna and as in good faith, the complainant accepted their persuasion. On the way, accused Pargat Singh, Charanjit Kaur and Kamaljit Kaur put something in the nose of complainant which resulted in her becoming unconsciousness and on re-gaining consciousness, she found herself in a Gurudwara at Chamkaur Sahib where accused Pargat Singh forcibly performed Anand Karj with her. Photographs were clicked and she was even made to sign many scribed and blank documents. The accused had threatened the complainant regarding facing dire consequences in case she disclosed the said incident even to any of her family members. It is also stated in the complaint that the complainant came to know the ill

designs of the said accused when a petition under Article 226/227 of the constitution of India was filed before this Court on 14.12.2011 in which the blank documents, which were got signed from her, were used and on these basis, an order dated 16.12.2011 was obtained from this Court. After passing of the said order, the complainant and her father made various representations on 28.06.2012, 13.07.2012, 21.07.2012 and 27.07.2012 to the police authorities but no action was taken against the accused. The complainant also filed an application for review of order dated 16.12.2011, passed by this Court wherein the protection to the life and liberty of the complainant and accused Pargat Singh was granted. This Court while passing the order in the said application, granted opportunity to the complainant to file suit etc. for annulment of the marriage. It is also stated in the complaint that the accused have filed a petition under Section 9 of the Hindu Marriage Act. It is further stated that the complainant never signed the false affidavit nor she got attested it from the notary public. Even she never appeared before this Court. It is further stated in the complaint that accused No.2 has also helped other accused in their illegal acts and also extending threats to kill the complainant.

I have heard learned counsel for the parties and have gone through the record.

From the perusal of the record and also after hearing the learned counsel for the parties, I find that complainant Gagandeep

Kaur solemnized marriage with Pargat Singh in Gurudwara and she also came to this Court and filed petition for protection which was allowed by this Court and then she remained with Pargat Singh as wife and lateron, after a long period, she filed this complaint which is nothing but an abuse of process of law. Learned counsel for respondent Gagandeep Kaur firstly contended that the quashing petition is not maintainable and only revision petition lies. Secondly, at the time of issuance of notice of motion, learned counsel for the petitioners wrongly contended before this Court that the petition under Section 9 of the Hindu Marriage Act has been allowed whereas the said petition is still pending. Learned counsel for respondent- Gagandeep Kaur further contended that the complainant has been marked present in the school then how she can come to this Court to get attested her affidavit. Perusal of the record shows that this Court vide order dated 21.08.2012, disposed of the review petition filed by Gagandeep Kaur while holding that the case was decided on the basis of materials brought before this Court where this Court has entered a prima facie view of the parties that being lawful wedlock, they were entitled to be protected by the police. If the averments in the petition were to be true then the second petitioner had deceived her into filing a petition, the issue of the validity of marriage itself could not be taken as having been decided in the writ proceedings. If there existed any vitiating circumstances as regards marriage, the petitioner will not be in any way barred from bringing an

appropriate suit for first jactitation of marriage or for annulment, as provided under the Hindu Marriage Act or any other proceeding. The said order dated 21.08.2012, passed in the review application and the order dated 16.12.2011, passed by this Court, granting protection show that the parties had applied for protection and they resided together for a long period. It is also stated in the complaint that the marriage ceremonies were performed in Gurudwara. Whether these ceremonies are as per law or not, can be decided by the Family Court in the matrimonial dispute. If, as per petitioner, the mere facts that she has been marked as present in the school or she was not present in this Court at the time of execution of her affidavit etc. or it is a false/forged document, then she should have come to this Court under Section 340 Cr.P.C. or under any other provisions of law for taking action against Pargat Singh. The mere dispute is that no marriage was performed, which is to be decided in the matrimonial proceedings. The petitioners have also placed on record the marriage certificate dated 13.12.2011 (Annexure P-4), given by Gurudwara, copy of application (Annexure P-5) given to Senior Superintendent of Police, Fatehgarh Sahib for providing protection and insured safety of Gagandeep Kaur and copy of writ petition (Annexure P-2), filed by Gagandeep Kaur and Pargat Singh against State of Punjab etc. and Jarnail Singh-respondents for protection in which order dated 16.12.2011 has been passed by this Court, holding that this Court is prima facie of the view that there has been a

lawful marriage and they are entitled to protection in any manner. Publication (Annexure P-3) dated 01.06.2012 in the newspaper 'Ajit' shows that Mehar Singh, father of Pargat Singh has got the said publication, disentitling his son Pargat Singh and daughter in law from his property as they are not under his and his family's command. Further, the record shows that the petition under Section 9 of the Hindu Marriage Act, filed by Pargat Singh is pending before the Court. The review application filed by Gagandeep Kaur was also dismissed. She has also filed civil suit for declaration that the alleged fake marriage dated 14.12.2011 between the parties is void, illegal and unlawful. All these documents, placed on record, show that the filing of complaint by Gagandeep Kaur is nothing but abuse of the process of law.

As regarding the legal objection, this Court finds that revision petition is maintainable if only summoning order is to be challenged. If the petitioners file the petition for quashing the complaint then only proceedings under Section 482 Cr.P.C. will be maintainable. Learned counsel for the petitioners also placed the information in the petition filed by Pargat Singh, obtained under the Right to Information Act. As per that information, on 13.12.2011 and 16.12.2011, Gagandeep Kaur was on casual leave. On 16.12.2011, this Court, passed the order regarding protection. On 14.12.2011, she has been shown present in the school. Only on this basis, it cannot be held that she did not appear before this Court. From the

record, it is clear that there is matrimonial dispute between Gagandeep Kaur and Pargat Singh and this complaint has been filed only in view of that dispute. The filing of complaint by complainant Gagandeep Kaur is nothing but abuse of the process of law. Even as per complaint, Gagandeep Kaur was conscious when she was in Gurudwara and when her signatures were obtained on typed papers or blank papers etc. There is nothing that these signatures were obtained under threat etc. or after 13.12.2011. Even, she had not raised any alarm to the general public etc. regarding her kidnapping or anything.

From the aforesaid discussion, this Court finds that there is merit in both the petitions and same are allowed. The complaint No.14 dated 31.07.2013 titled as 'Gagandeep Kaur versus Pargat Singh etc.', summoning order dated 01.11.2014 and all consequential proceedings arising therefrom are hereby quashed qua petitioners.

**06<sup>th</sup> October, 2015**  
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**(INDERJIT SINGH)**  
**JUDGE**