

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-2553 of 2015

Date of decision: 18.08.2015

Himani Sharma and another Petitioners

Versus

State of Punjab and others Respondents

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

Present: Mr. Vikram Satpal, Advocate
for the petitioners.

Mr. Gurveer Sidhu, AAG, Punjab.

Mr. Sanjeev Sharma, Advocate
for respondents no. 4, 6 and 7.

R.P. NAGRATH, J. (Oral)

Prayer in the instant petition is made under Section 482 Cr.P.C. for issuance of directions to respondents no. 2 and 3 for protecting life and liberty of petitioners and not to interfere in the peaceful married life of the petitioners.

In support of date of birth, petitioner No.1-Himani Sharma appended her affidavit dated 22.01.2015 showing her date of birth as 03.05.1996.

When the matter was listed before a coordinate Bench of this Court on 23.01.2015, following order was passed:-

“Petitioners claim that they have attained majority and have married against the wishes of their family members. They seek protection of life and liberty.

The case appears to be covered by the judgment of

Pardeep Kumar Singh vs. State of Haryana, 2008

(3) RCR (Crl.) 376.

Notice of motion for March 23, 2015.

Meanwhile, an interim direction is issued that none of the petitioners would be taken in custody by any of the respondents, forcibly on the allegation that petitioner No.1 has been abducted or raped by petitioner No.2.”

On behalf of respondents No.4, 6 and 7 appearance was made on 23.03.2015 and this Court passed the following order:-

“Learned counsel for private respondents has filed reply, which is taken on record.

It is stated that date of birth of petitioner no. 1 is 03.05.1998 and the documents in support of the above contention have also been filed. It is further contended that petitioners stated in paragraph no. 4 that they are attaching marriage certificate (Annexure P-4) but no such certificate has been attached on record and even the same has not been mentioned in the index.

Petitioners are directed to appear in person on the next dat and explain why they be not prosecuted for making false affidavit. Official respondents no. 2 and 3 be directed to take action in accordance with law if any offence is made out in respect of action of petitioner no. 2 on the ground of petitioner no. 1 being minor.

List on 19.05.2015.”

When the case was listed on 19.03.2015 following order was passed:-

“Petitioners are not present in person despite the

directions issued on 23.03.2015.

Let theirailable warrants be issued.

Learned State counsel again seeks time to comply with the order dated 23.03.2015.

List on 18.08.2015.

It is directed that the police officer not less than the rank of Deputy Superintendent of Police would appear in person on the next date and response by way of affidavit of Senior Superintendent of Police, Ferozepur be also filed.”

Today, again the petitioners have not appeared and even learned counsel for petitioners submits that petitioners have also not contacted him.

Report from the Court of Chief Judicial Magistrate duly forwarded by District and Sessions Judge, Ferozepur has been received that despite raids both the petitioners were not found.

As per affidavit of the Senior Superintendent of Police, Ferozepur, FIR No. 11 dated 23.01.2015, for offences under Sections 363 and 366-A IPC has been registered at Police Station Cantt., Ferozepur but no headway has been made in the investigation so far.

In the facts and circumstances, I find that petitioner No.1-Himani Sharma in connivance with petitioner No.2-Arun Kumar, who came up with false representation in the affidavit as well as the main petition, must be prosecuted for the offence which has been *prima facie* committed in order to maintain the

majesty of law as the persons who come with such kind of misrepresentation and concealment of facts from the Court cannot be let off lightly and this Court must ensure that this tendency is not encouraged.

I have heard learned counsel for the petitioners, carefully considered the contention raised on their behalf and am of the opinion that both the petitioners deserve to be proceeded in terms of 195 (1) (b) (i) Cr.P.C. Section 195(1)(b)(i) Cr.P.C. relates to offence under Section 193 IPC. Section 193 prescribes punishment for giving false evidence. 'False Evidence has been defined in Section 191 IPC as under:-

“191. Giving false evidence – *Whoever, being legally bound by any oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject , makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.”*

In the instant case, petitioners were legally bound by oath to state truth in the petition and the affidavit filed in support of it. The date of birth of petitioner no. 1 was stated to be 03.05.1996 but as per Matriculation certificate Annexure R-4/1 placed on record by private respondents her date of birth in fact is 03.05.1998. So they mis-represented and made false statement in the affidavit. Therefore, they have been *prima facie* made liable under Section 193 IPC. So I find it expedient that a complaint should be made against petitioners in terms of Section

340 Cr.P.C.

Registrar General/Authorized Officer of this Court is directed to file necessary criminal complaint against petitioners in the Court of competent jurisdiction at Chandigarh. The complaint against petitioner No.1 would of course be filed before the Juvenile Justice Board, Chandigarh.

In the affidavit of Senior Superintendent of Police, it has, however, been observed that offences under Sections 199, 200 and 420 IPC have also been added in FIR No. 11 dated 23.01.2015 but I am of the view that addition of these offences in the FIR was not permissible as for the offence of misrepresentation of facts or making of false statement in the Court only a criminal complaint can be lodged for which the observations have been made hereinbefore.

With the above observations the instant petition stands disposed of.

August 18, 2015
jk

(R.P. NAGRATH)
JUDGE