

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

(1) Crl. Misc. M 17865 of 2013 (O&M)
Date of decision: 1.8.2017

Khalil Ahmed

...Petitioner

Versus

Shehnaz Bano and others

...Respondents

(2) Crl. Misc. M 18104 of 2013 (O&M)

Qamar Jahan

...Petitioner

Versus

Shehnaz Bano and others

...Respondents

(3) Crl. Misc. M 35891 of 2013 (O&M)

Iqbal Singh Channa

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. G.N. Malik, Advocate,
for the petitioners.(in CRM-M Nos.17865 and 18104 of 2013)
and for respondents No.3 to 5 (in CRM-M No.35891 of 2013)

Mr. T.P.S. Tung, Advocate,
for respondents No.1 and 2 (in CRM-M Nos.17865 and 18104
of 2013) and for the petitioner (in CRM-M No.35891 of 2013)

Mr. APS Gill, AAG, Punjab.

Mr. Arun Jindal, Advocate
for respondent No.4 (in CRM-M Nos.17865 and 18104 of
2013) and for respondent No.6 (in CRM-M No.35891 of 2013)

JAISHREE THAKUR, J. (Oral)

1. This order shall dispose of the above mentioned three Criminal Misc. Petitions as they arise out of the same set of facts and involving the similar question of law.

2. In brief, the facts are that the instant petitions have been filed for initiating criminal proceedings under Section 340 of the Code of Criminal Procedure (for short '**the Code**'). Crl. Misc. Nos. 17865 and 18104 of 2013 have been filed by Khalil Ahmed and Qamar Jahan for initiating proceedings against Shehnaz Bano and her father Iqbal Channa-respondents No. 1 and 2 respectively, whereas Crl. Misc. M 35891 of 2013 has been filed by Iqbal Channa for initiating proceedings against Khalil Ahmand, Qamar Jahan and Mohd. Sakib. Both the parties have made allegations against each other for producing fabricated false evidence and producing a tampered document i.e. Nikahnama dated 15.11.2009 in Crl. Misc. M 5712 of 2012. It is stated that Nikahnama dated 15.11.2009 was prepared in triplicate, out of which, one was handed over to the bride side of the family, another was handed over to the groom side of the family and the third was kept in the register of the Moulvi, who performed the marriage. Thus, the entire controversy revolves around the authenticity of the Nikahnama dated 15.11.2009, i.e. one set up by the petitioners and another set up by respondents No. 1 and 2 (in Crl. Misc. No. 17865 and 18104 of 2013 respectively).

3. One Shehnaz Bano got married to Mohd. Saqib on 15.11.2009 as per the Islamic rites and ceremonies. At the time of wedding a

Nikahnama dated 15.11.2009 was entered into, in which details of the Mehar were enlisted. In fact, Khalil Ahmed and Qamar Jahan (petitioners in Crl. Misc. No. 5712 M of 2012) approached this Court seeking relief of anticipatory bail in FIR No. 12 dated 20.1.2012 registered under Sections 406/498-A IPC. In those proceedings, the respondent Shehnaz Bano and her father relied upon a Nikahnama dated 15.11.2009, wherein it was mentioned as *“Mehar Fatimi @ One Hundred Thirty one Tola and five Masha Chandi (Gair Muajjal Andel Talab) and Jewellery Gold one Hundred One Tola in the ownership of the bride”*.

4. Learned counsel for the petitioners (in Crl. Misc. No. 17865 and 18104 of 2013) contends that, as per Nikahnama in his possession and in the possession of the Moulvi, there is no mention of gold articles weighing 101 tola, whereas in the 'Nikahnama' relied upon by respondents—Shehnaz Bano and her father Iqbal Channa, it mentions 'jewellery of gold measuring 101 tola in the ownership of bride'. Learned counsel for the petitioner argues that there is apparent forgery in the 'Nikahnama' as relied upon by the bride and her father, while relying upon the affidavit as furnished by respondent No.4—Mufti Fazailu Rehman Hilal Usmani. In Crl. Misc. No. 35891 of 2013, a petition that has been filed by Iqbal Channa son of Bashir Ahmed, father of Shehnaz Bano, a similar prayer has been made for initiating proceedings under Section 340 of the Code against respondents (petitioners in Crl. Misc. No. 17865 and 18104 of 2013) stating that 'Nikahnama' as relied upon by them is forged and fabricated document since it has deleted the words mentioned therein as “One Hundred One Tola

in the ownership of bride”.

5. I have heard learned counsel for the parties and have gone through the records of the case.

6. Undisputedly, there are two Nikahnamas dated 15.11.2009 on the record of this case, one claimed by the bridegroom side and the other claimed by the bride side, which are contradictory to each other, specially in terms of 'Mehtar' which has to be given to the bride. As per the affidavit filed by Moulvi, who is respondent No. 4 in the first two petition and respondent No. 6 in the third petition, there is no mention of '101 gold tolas to be given to the bride' and in fact, he supports the version as set up by the petitioners Khalil Ahme and Qamar Jahan—petitioners in Crl. Misc. No. 17865 and 18104 of 2013.

7. Mr. Arun Jindal, submits no allegations have been made against the moulvi and as such no proceedings are required to be initiated against him under Section 340 of the Code.

8. Section 340 of the Code provides that upon an application, if any Court is of the opinion that an inquiry should be made in relation to a document produced or given in evidence in any proceedings in that Court, the Court may record a finding to that effect, make a complaint thereof in writing and send it to a Magistrate of the first class having jurisdiction. As per Section 340 (3) of the Code, where the complaint is made in the High Court, the inquiry may be made by the officer of the Court.

9. The disputed document was presented in the High Court in Crl. Misc. M 5712 of 2012 and such dispute can only be settled if both the

documents in question are examined (which are alleged to be at variance). In these circumstances, it would be expedient to refer the matter to the Registrar (General) of this Court to hold an inquiry as to the authenticity of the document relied upon by both the parties i.e. Nikahnama dated 15.11.2009. The parties shall be given opportunity to lead evidence in this regard and in case the Officer comes to a conclusion that either of the documents is forged, he is at liberty to initiate proceedings thereof.

10. The parties are directed to appear before the Registrar (General) on 1.9.2017.

All the petition stand disposed of with the above direction.

1.8.2017
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No