

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

**CRA-S-1760-2019 (O&M)
Date of decision: 21.08.2019**

Ranjeet Jha

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Vaibhav Jain, Advocate
for the appellant.

ARVIND SINGH SANGWAN, J. (Oral)

CRM-18945-2019

Prayer in this application is for condonation of delay of 24 days
in filing the accompanying appeal.

For the reasons stated in the application, the same is allowed
and the delay of 24 days in filing the appeal is hereby condoned.

CRA-S-1760-2019 (O&M)

This appeal has been filed for setting aside the order dated
08.03.2019, passed by the Sessions Judge, Faridabad, vide which an
application, filed by the appellant for initiating proceedings under Section
340 Cr.P.C. to punish the private respondents under Sections 191, 192, 195,
196, 198, 199, 200, 120-B read with Section 467, 468, 471 of the IPC, was
dismissed.

Brief facts of the case are that the appellant is father of Shivani
Jha, who has performed love marriage with respondent No. 2 Preet Nagar
and filed a protection petition before the Sessions Judge, Faridabad on
30.10.2018, on the ground that they have performed the marriage against the

wishes of the family members i.e. the appellant. In those proceedings, the daughter of the appellant claimed her date of birth to be 26.10.2000 and that of her husband/respondent No. 2 to be 26.06.1997. A marriage certificate dated 30.10.2018 was also placed on the file along with the protection petition. It is further stated in the said application that Preet Nagar has even filed his Aadhar Card with the protection petition showing his date of birth as 26.06.1997. After recording the joint statement of the parties, Sessions Judge, Faridabad sent both of them to protection home till 01.11.2018 and notice was issued to the appellant. Thereafter, on receiving a police report dated 01.11.2018, wherein all the family members, including appellant Ranjeet Jha, made a statement that they have no objection with the marriage of Shivani Jha with Preet Nagar, the protection petition was dismissed as withdrawn on 01.11.2018.

Later on, the appellant filed an application under Section 340 Cr.P.C. against Preet Nagar, his family members, President of Arya Samaj Mandir and the Pandit who performed the marriage with the allegations that they have prepared a fake certificate of the marriage as the actual date of birth of Preet Nagar is not 26.06.1997 but 22.08.2000, as per his educational certificates. Therefore, Preet Nagar was below the age of 21 years at the time of marriage and on the basis of false document, he has got prepared the said marriage certificate.

Reply to the said application was filed by respondent Nos. 1 to 4 and it was denied that Preet Nagar or the respondents have prepared a fabricated document or Aadhar Card. It was further contested that Shivani Jha, daughter of the appellant, was major and was competent to take decision of her own life and she has voluntarily solemnized marriage with

respondent No. 2 Preet Nagar of her own free will and without any pressure. It was also submitted that Shivani Jha is residing peacefully as wife of Preet Nagar and presently she is pregnant and both the husband and wife are having no dispute with each other.

The trial Court, after recording the finding that though there is a variation of date of birth of Preet Nagar in the protection petition and the school certificate, however, dismissed the application vide impugned order holding that at one point of time, the appellant himself has given a statement during the pendency of the protection petition on 01.11.2018 that he has no objection with the marriage of his daughter Shivani Jha with Preet Nagar and on such assurance, the protection petition was withdrawn by them, therefore, it is not in the interest of justice to initiate proceedings under Section 340 Cr.P.C. against the respondents. Hence, the present appeal.

Learned counsel for the appellant has argued that in fact respondent No. 2, in conspiracy with other respondents, has prepared a fake Aadhar Card showing his date of birth as 26.06.1997 so as to convince the Court that he is above 21 years of age, whereas he was in fact below the age of 21 years at the time of marriage and, therefore, the marriage certificate is fake.

Learned counsel for the appellant further argued that even the affidavit, filed by respondent No. 2 Preet Nagar, was false and, therefore, all the accused persons have committed an offence and proceedings should be initiated against them under Section 340 Cr.P.C.

After hearing learned counsel for the appellant, I find no merit in the present appeal for the following reasons:

Firstly, the appellant has not arrayed his daughter Shivani Jha

as one of the accused as he knew that he has given his consent for the marriage with Preet Nagar by making a statement before the police and thereafter, the protection petition, filed by his daughter and Preet Nagar, was withdrawn on 01.11.2018.

Secondly, respondent, in their reply to the application filed by the appellant, have contested that the daughter of the appellant Shivani Jha and Preet Nagar are living happily as husband and wife and even Shivani Jha is pregnant and they have no dispute in their matrimonial life.

Thirdly, the trial Court, in exercise of its powers under Section 340 Cr.P.C., has formed an opinion that it is not expedient in the interest of justice to initiate inquiry as contemplated under Section 340 Cr.P.C. in the given facts of the present case, especially in view of the fact that the appellant himself has made statement that he will not cause any harm to his daughter Shivani Jha and her husband Preet Nagar, therefore, the protection petition was later on withdrawn.

Even otherwise, it is well established principle of law held by Hon'ble Supreme Court in *Amarsang Nathaji as Himself and as Karta and Manager vs. Hardik Harshadbhai Patel and others, 2017 (1) R.C.R. (Criminal) 92* that in every case it is not expedient to initiate proceedings under Section 340 Cr.P.C., on merely filing of a false affidavit.

Therefore, finding no merit in the present appeal, the same is hereby dismissed.

21.08.2019

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*