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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 312/2020

SH. AJAY VERMA

..... Petitioner

Through Mr.S.K.Bhalla, Advocate.

versus

STATE & ORS.

..... Respondents

Through Mr.Rahul Mehra, standing counsel
(Crl.) for the State with Mr.Chaitanya
Gosain and Mr.Divyank Tyagi,
Advocates.
Inspector Vijay Kumar and SI Amit
Kumar, PS N.U.Pur.

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Date of Decision: 05th February, 2020

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

J U D G M E N T

MANMOHAN, J:- (Oral)

1. Present writ of habeas corpus had been filed by the petitioner seeking production of his alleged wife-Ms.Soni, who was stated to be in illegal custody of her family members i.e. respondent nos.2 to 5 since 9th-10th January, 2020.
2. Mr.Rahul Mehra, learned standing counsel for the State, who had appeared on advance notice on 03rd February, 2020, had handed over a status report dated 03rd February, 2020. The relevant portion of the same is

reproduced hereinbelow:-

“2. During enquiry he stated that in April 2019 he came in contact with Ms. Soni D/o Sh. Dhanjay Singh r/o 157/7 Gali No.8 Gali Mirzapur, Kalyan Pur Railway Station Distt. Kanpur U.P. through Jeewan Sathi website. He further stated that on 09/01/2020 he solemnized marriage with Ms. Soni in some temple of Yamuna Bazar, Delhi with Hindu rites and just after the marriage he along with Ms. Soni, came to his house and subsequent to that the uncle of Ms. Soni namely Sunil Singh came to his house at New Uaman pur and took Ms. Soni alongwith him for ritual of Pag Phera on the same day.

3. During the course of enquiry Sh. Ajay Verma could not tell the name and location of the temple where the marriage was solemnized on 09/01/2020 and could not provide any video or photographs or any eyewitness pertaining to above said marriage. He even could not provide any marriage certificate pertaining to above said marriage.

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5. That Mr. Ajay Verma stated the mobile number of Ms. Soni i.e. 8303653749. The CDR of above said mobile was analyzed and it came to notice that the location of this mobile number was in Bharatpur Khurd Takha Uttar Pardesh, U.P. on 09/01/2020 and not in Delhi.

6. That the CDR of mobile No.9560075584, which is registered in the name of Mr. Ajay Verma was analyzed and it was revealed that he was present in Usmanpur whole day and did not visit anywhere.

7. Mr. Ajay Verma stated that he went to Kanpur on 15/01/2020 to bring back Ms. Soni on analysis of his above said mobile number CDR, it reveals that he was present in Gurgaon from 10 AM to 2.54 PM and at 4.00 his location was in Usmanpur. Further, on 16/01/2020 his location was in Delhi not in Kanpur.

8. That on 01/02/2020, Mr. Ajay Verma made two calls on the mobile of Ms. Soni i.e. 8303653749 in the presence of police

and on the other side Ms. Soni told that she was did not get married with him (Ajay Verma) and told further that if she will be pressurised she will commit suicide. The above said calls were recorded and shared to police through whatsapp.

9. That apart from the enquiry conducted so far, it seems that marriage of Mr. Ajay Verma was not solemnized on 09/01/2020. However, the undersigned is ready to abide by the directions issued by the Hon'ble Court."

3. Though the factum of marriage had been repeatedly averred in the present writ petition, yet no marriage certificate had been placed on record.

4. Consequently, this Court on 03rd February, 2020, had directed the petitioner to produce the marriage certificate.

5. Since the petitioner on the said date had also asserted that he had initially given the name of the wrong Pandit to the Investigating Officer, this Court had directed the petitioner to accompany the Investigating Officer to the temple where the alleged marriage had taken place and to ensure that he took the Investigating Officer to the Pandit who performed the alleged marriage ceremony.

6. Learned counsel for the petitioner wishes to withdraw the present writ petition. However, the said request is opposed by learned counsel for the State.

7. The learned standing counsel for the State has also handed over a status report dated 05th February, 2020, wherein it is averred as under:-

"On 04/02/2020 petition Mr. Ajay Verma s/o Sh. Mool Chand r/o B-55 Gali No.3 New Usmanpur Ist Pusta Delhi-110053 took the police team to Ved Mandir Arya Samaaj Bramapuri Shaheed Bhagat Singh Mauhalla New Usmanpur Delhi-110053, petitioner claimed that that his alleged marriage was solomnized here on 09/01/2020. The Pandit Ji Sh. Sunder Shastri s/o Sh.Gopal Singh r/o above said, was met and the matter was brought into his notice.

He stated that he did not get the marriage solemnized of Ajay Verma with Soni. He (Ajay Verma) did not visit his temple on 09/01/2020. He further submitted that Mr. Ajay Verma visited his temple on 02/02/2020 and requested to issue a marriage certificate in the name of Soni and Ajay Verma. Panditji Sunder Shashtri refused for the same. In this regard he submitted his own hand written statement. The copy of the same is annexed here as Annexure A.

That on the same day Mr. Narender Sharma s/o Sh. Suresh Chand Sharma r/o F-65 Gali No.4 IInd Pusta, New Usmanpur Delhi-53 aged 31 years was contacted. During enquiry he stated that Ajay Verma was his class mate in 9th and 10th class and he is not a witness of his marriage with Soni. In fact from 1st January to 15th January he along with his family was on an all India tour and on 09th January 2020 he was in Calcutta, West Bengal. In this regard he also submitted his own hand written statement (Copy of the same is annexed as Annexure-B). The Call details of mobile number i.e. 9716955901, which belongs to Sh. Narender Sharma was analyzed and the location of this mobile number was in West Bengal on 09/01/2020.

That further, Mr. Om Ji, brother of Ms. Soni was contacted on mobile number 7607906577. Om Ji stated that Ms. Soni is his sister and she got married in 2016 with Mr. Yogender Pratap Singh r/o Post Ushrahar Tehsil Takha Etawa, U.P. and is having 2 year child. Mr. Om Ji took Ms. Soni on conference and Soni substantiated the fact provided by Mr. Om Ji. Ms. Soni stated that she never married with Ajay Verma but occasionally talked to him on phone as a friend. The conversation is recorded. Mr. Om Ji sent the marriage photograph, invitation card and family photograph of Soni, her husband and her child and domicile certificate of Ms. Soni on Whatsapp. In domicile certificate the name of her husband was mentioned as Sh. Yogender Pratap Singh. The copies of the same are annexed hereas Annexure C (Colly).

That from the enquiry conducted so far, it suggests that marriage of Mr. Ajay Verma was not solemnized on 09/01/2020.....”

8. Upon questioning by the Court, the petitioner as well as his father have admitted that in fact no marriage had taken place between the petitioner and Ms.Soni. They state that they had made false averments relying on the assurance, undertaking and guarantee given by Pandit Ji Sh. Sunder Shastri that he would issue a fake marriage certificate.

9. However, Pandit Ji Sh.Sunder Shastri, who is personally present in Court, states that he had met the petitioner for the first time on Sunday i.e. 02nd February, 2020. He denies that he had given any assurance or undertaking to the petitioner. He points out that prior to the today's hearing, he had already intimated to the Investigating Officer that no such marriage had taken place and his statement stands recorded to that effect.

10. Since it is an admitted position that the petitioner has made false averments with regard to the solemnisation of his marriage in the present writ petition, this Court declines the prayer for withdrawal of the writ petition.

11. In a case where a false affidavit had been sworn by a deponent, the Supreme Court had invoked its Criminal Contempt jurisdiction under Section 2(c) of the Act, 1971 and punished the contemnor under Section 12 of the said Act. In ***Dhananjay Sharma Vs. State of Haryana & Ors., (1995) 3 SCC 757***, it has been held that even though the provisions relating to perjury were applicable, the offenders were liable for criminal contempt as it had the effect of interfering and/or impeding with the administration of justice. The relevant portion of the Apex Court judgment in ***Dhananjay Sharma*** (supra) is reproduced hereinbelow:-

“38. Section 2(c) of the Contempt of Courts Act, 1971 (for short the Act) defines criminal contempt as “the publication (whether by words,

spoken or written or by signs or visible representation or otherwise) of any matter or the doing of any other act whatsoever to (1) scandalise or tend to scandalise or lower or tend to lower the authority of any court; (2) prejudice or interfere or tend to interfere with the due course of judicial proceedings or (3) interfere or tend to interfere with, or obstruct or tend to obstruct the administration of justice in any other manner. Thus, any conduct which has the tendency to interfere with the administration of justice or the due course of judicial proceedings amounts to the commission of criminal contempt. The swearing of false affidavits in judicial proceedings not only has the tendency of causing obstruction in the due course of judicial proceedings but has also the tendency to impede, obstruct and interfere with the administration of justice. The filing of false affidavits in judicial proceedings in any court of law exposes the intention of the party concerned in perverting the course of justice. The due process of law cannot be permitted to be slighted nor the majesty of law be made a mockery of by such acts or conduct on the part of the parties to the litigation or even while appearing as witnesses. Anyone who makes an attempt to impede or undermine or obstruct the free flow of the unsoiled stream of justice by resorting to the filing of false evidence, commits criminal contempt of the court and renders himself liable to be dealt with in accordance with the Act....”

12. Consequently, as in the present case the petitioner has himself admitted to making false statements before court under oath, this Court is of the view that it is entitled in law to invoke its contempt jurisdiction and sentence the petitioner for criminal contempt. This Court is also of the view that in view of the admission, it is not necessary to follow the elaborate procedure of framing a charge and proceeding with a trial.

13. In any event, the Apex Court in ***Leila David Vs. State of Maharashtra & Ors., (2009) 10 SCC 337*** has held, “Although, Section 14 of the Contempt of Courts Act, 1971, lays down the procedure to be followed in cases of criminal contempt in the face of the Court, it does not preclude the

court from taking recourse to summary proceedings when a deliberate and wilful contumacious incident takes place in front of their eyes and the public at large....”

14. In the opinion of this Court, the present case is a case of contempt in the face of the Court and therefore, Section 14 of the Act, 1971 applies.

15. However, before this Court sentences the petitioner, it directs the Police to investigate the background of the petitioner as well as the plausible reasons, if any, for making false averments in the present writ petition.

16. List on 07th February, 2020.

17. The petitioner shall be personally present in Court on the next date of hearing.

MANMOHAN, J

SANGITA DHINGRA SEHGAL, J

FEBRUARY 05, 2020
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