

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
(Heard through VC)**

**CRM-M-26074 of 2021 O&M)
Date of Decision: 9.7.2021**

Narinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. TPS Tung, Advocate
for the petitioner.

JAISHREE THAKUR, J.

1. The petitioner herein has approached this Court seeking a direction to be issued to the official respondents not to call the petitioner to the Police Station without issuance of summons as required under Section 160 of the Code of Criminal Procedure (hereinafter referred to as “**the Code**”) or under Section 41A of the Code.

2. Learned counsel for the petitioner would contend that the petitioner was married with one Baljit Kaur, which was dissolved by a decree of divorce on the petition filed under Section 13-B of the Hindu Marriage Act. Thereafter, he solemnised a marriage with Sarbjeet Kaur on 27.2.2016. The petitioner came to know that Sarabjit Kaur respondent No. 6 was earlier married with Bagicha Singh—respondent No. 7 and that marriage was still subsisting. Respondent No. 6 had again developed relations with respondent No. 7 and had left matrimonial home on 13.5.2020. Constrained with the circumstances, the petitioner filed a petition under Section 11 of the Hindu Marriage Act for declaring the marriage of the petitioner with respondent No. 6 as null and void, and also filed a complaint case in the court at Batala under Sections 494-A, 406, 420,

120-B IPC against respondent No. 6 and her family members as they had concealed the fact of earlier marriage of respondent No. 6 with Bagicha Singh. It is contended that as respondents No. 6 and 7 are close to a Cabinet Minister in the Government of Punjab, the petitioner is being harassed and pressurised to withdraw cases filed under Section 11 of the Hindu Marriage Act as well as the complaint case. Learned counsel would also submit that on several dates the petitioner has been called and made to sit at the Police Station from 10 AM to 4 PM, apart from that the house of the petitioner is being raided.

3. Notice of motion.

4. Ms. Jaspreet Kaur AAG Punjab, who is present through the medium of video conferencing, accepts notice on behalf of the respondent—State.

5. The limited prayer made in this petition is for adequate notice to be issued to the petitioner under Section 160 or 41A of the Code, in case he is required. Section 160 of the Code empowers “*any police officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case;*” **whereas** Section 41A of the Code provides “*Notice of appearance before police officer.-- (1) [The police officer shall], in all cases where the arrest of a person is not required under the provisions of sub-section (1) of section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to*

appear before him or at such other place as may be specified in the notice.”

6. As per the case set out by the petitioner, he is made to sit in the police station only to exert pressure upon him to withdraw the cases he has filed against respondent No. 6 and to settle the dispute. There is also an assertion made that he is being compelled to give an amount of ₹30 lacs to respondent No. 6, which, according to him, is not payable since the marriage between the parties is null and void. He has given a number of dates that the police has raided his house while submitting that he is no longer residing in the said village for fear of arrest. As on date no case has been filed against the petitioner. In the case of **Arnesh Kumar vs. State of Bihar (2014) 8 SCC 273**, the Supreme Court has given specific directions to the effect re: arrest of a person in proceedings under Section 498A IPC *“Notice of appearance in terms of Section 41A of Cr.P.C be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing.”*

7. Consequently, since as on date there is no case listed against the petitioner, this court deems it appropriate to dispose of this matter with a direction that in case there is any case registered against the petitioner then, adequate notice of 15 days be given to him in compliance of Sections 160 and 41-A of the Code of Criminal Procedure.

The petition stands disposed of accordingly.

9.7.2021

prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned :

Yes

Whether Reportable :

No