

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

239+240

DECIDED ON: 7th December, 2022

(1) CRM-M-39485 of 2018

Meena

.....PETITIONER

VERSUS

State of Haryana and others

.....RESPONDENTS

(2) CRM-M-7258 of 2019

Balwant Singh

.....PETITIONER

VERSUS

State of Haryana and others

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Kushagra Mahajan, Advocate and
Mr. Dinesh Maurya, Advocate for
Mr. G.S. Sandhu, Advocate for petitioners.

Mr. Gurmeet Singh, AAG Haryana.

AVNEESH JHINGAN, J (ORAL)

1. These two petitions are filed for initiation of action under Section 340 Cr.P.C. against private respondents arrayed in the petition. CRM-M-39485 of 2018 is filed by Meena first wife of Suresh Kumar. CRM-M-7258 of 2019 is filed by Balwant Singh father of Usha.

2. The brief facts are that Usha daughter of Balwant Singh and Suresh Kumar son of Balbir Singh filed CRM-M-37239 of 2018 seeking protection from the private respondents as they apprehend threat after solemnizing marriage. It was pleaded that they had solemnized their marriage and it was their first marriage. The petition was disposed of on 28.8.2018.

3. Before proceedings further, the order passed by this Court on 28.8.2018 is reproduced:-

"Petitioners Usha and Suresh Kumar have averred that they have married against wishes of respondents No.4 to 7 who are members of family of petitioner No.1. The petitioners have annexed copies of their school certificates indicating that the petitioners are aged 23 years and 31 years respectively.

he petitioners apprehend threat to their life and liberty at the hands of respondents No.4 to 7 and thus seek issuance of appropriate directions.

The petition is disposed of with a direction to respondent No.2-Superintendent of Police, Karnal to look into the representation dated 21.8.2018 (Annexure P-6) made by petitioners, in accordance with law, immediately upon receipt of certified copy of this order. In case any serious apprehension of threat to the life and liberty of the petitioners is found, requisite steps be taken immediately, in accordance with law, to protect life and liberty of the petitioners.

However, the aforesaid order shall not be taken to be any expression regarding validity of the alleged marriage of the parties."

4. The law is well settled that proceedings under Section 340 Cr.P.C. are to be initiated in exceptional circumstances and considering the impact of commission of offence upon the administration of justice. Reliance is placed upon the decision of the Supreme Court in ***R.S. Sujatha Versus State of Karnataka and others 2011(5) SCC 689*** wherein it has been held as under:

"12. Thus, from the above, it is evident that the inquiry/contempt proceedings should be initiated by the court in exceptional circumstances where the court is of the opinion that perjury has been committed by a party deliberately to have some beneficial order from the court. There must be grounds of a nature higher than mere surmise or suspicion for initiating such proceedings. There must be distinct evidence of the commission of an offence by such a person as mere suspicion cannot bring home the charge of perjury. More so, the court has also to determine as on facts, whether it is expedient in the interest of justice to inquire into the offence which appears to have been committed."

4.1 *The Supreme Court in **Iqbal Singh Marwah and another Versus Meenakshi Marwah and another, 2005(4) SCC 370** has held as under:*

"18. In view of the language used in [Section 340](#) Cr.P.C. The Court is not bound to make a complaint regarding commission of an offence referred to in [Section 195\(1\)\(b\)](#), as the Section is conditioned by the words "Court is of opinion that it is expedient in the interest of justice." This shows that such a course will be adopted only if the interest of justice requires and not in every case. Before filing of the complaint, the Court may hold a preliminary enquiry and record a finding to the effect that it is expedient in the interests of justice that enquiry should be made into any of the offences referred to in [Section 195\(i\)\(b\)](#). This expediency will normally be judged by the Court by weighing not the magnitude of injury suffered by the person affected by such forgery or forged document, but having regard to the effect or impact, such commission of offence has upon administration of justice. It is possible that such forged document or forgery may cause a very serious or substantial injury to a person in the sense that it may deprive him of a very valuable property or status or the like, but such document may be just a piece of evidence produced or given in evidence in Court, where voluminous evidence may have been adduced and the effect of such piece of evidence on the broad concept of administration of justice may be minimal. In such circumstances, the Court may not consider it expedient in the interest of justice to make a complaint. The broad view of clause (b)(ii), as canvassed by learned counsel for the appellants, would render the victim of such forgery or forged document remedyless. Any interpretation which leads to a situation where a victim of a crime is rendered remedyless, has to be discarded."

...(emphasis supplied)

5. During the hearing of the petitions, a specific query was put to learned counsel for petitioners as to whether civil or criminal proceedings have been initiated against Usha and Suresh Kumar or their marriage has been challenged. Learned counsel for the petitioners submit that they have no such

6. From the perusal of order dated 28.8.2018 it is forth coming that this Court had not commented upon the validity of marriage and only a direction was issued to the Superintendent of Police, Karnal, to look into the representation and in case of threat perception, necessary steps be taken.
7. Considering the facts and circumstances of the case, it is not found to be a fit case for initiation of proceedings under section 340 Cr.P.C. More so, when the alleged false pleadings have not affected the decision of this Court.
8. Dismissed.
9. Since the main case has been dismissed, the pending application, if any is rendered infructuous.
10. Photocopy of this order be placed on the file of connected case.

7th December, 2022

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**(AVNEESH JHINGAN)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>