

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-21179 of 2017

Date of Decision: 12th December, 2022

Chhinder Kaur @ Shinder Kaur

Petitioner

Versus

State of Punjab and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Prabhjot Singh, Advocate for the petitioner.
Mr. Shiva Khurmi, AAG, Punjab.

AVNEESH JHINGAN, J (Oral):

This petition under Section 340 Cr.P.C. read with Section 482 Cr.P.C. is filed seeking legal action against respondents No. 2 and 3 who had filed false affidavits before this court, furnished false information and concealed material facts to obtain favourable order dated 2.6.2016 in CRM-M-19953 of 2016.

From the pleadings, it is evident that the petitioner is first wife of Harjeet Singh. Harjeet Singh along with Kamlesh Kaur filed CRM-M-19953 of 2016 in this court seeking directions to the official respondents to protect their life and liberty as they had solemnised marriage.

In the present petition, the grievance is that Harjeet Singh had wrongly pleaded in the petition that it was his first marriage.

Before proceeding further, order dated 2.6.2016 is reproduced below:

“Petitioners have filed this petition under Section 482 Cr.P.C. for protection of their life and liberty.

Learned counsel submits that petitioners are major and have married against the wishes of their parents. They have placed on record Annexures P/1 and P/2 as proof of their age and also marriage certificate, Annexure P/3. He further

submits that a representation (Annexure P/5) was made to respondent No. 2 bringing to his notice that the petitioners have married and feared threat to their life and liberty from respondents No. 4 to 6.

Notice of motion to official respondents.

On asking of the court, Mr. Shilesh Gupta, Addl. AG, Punjab accepts notice on behalf of the State of Punjab.

After hearing counsel for the parties, instant petition is disposed of with a direction to respondent No. 2 to look into the representation, Annexure P/5 preferred by petitioners and take appropriate steps, if circumstances so warrant.

However, this court does not express any opinion with regard to validity or otherwise of the marriage."

Before proceeding further, it would be gainful to cite following order of the Supreme Court in ***R.S. Sujatha Versus State of Karnataka and others 2011(5) SCC 689*** has 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."

...(emphasis supplied)

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)*

One of the issue to be considered is whether party was able to get a favourable order due to false statement. The proceedings under Section 340 Cr.P.C. are to be initiated only if it is expedient in the interest of justice to inquire into offence which has been committed and not in every case.

During hearing of the case, it was specifically enquired from the petitioner as to whether the petitioner has taken any civil or criminal remedy against the second marriage solemnised by her husband. Learned counsel for the petitioner submits that he has no instructions.

From the facts mentioned above, it is evident that this court had not commented upon the validity of the marriage and only direction given was to consider the representation made by the couple stating that there is threat apprehension.

No case is made out for interference.

Dismissed.

Since the main case has been dismissed, the pending application, if any is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

12th December, 2022
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |