

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29718 of 2016 (O&M)

DECIDED ON:27th September, 2022

Satish Kumar

.....PETITIONER

VERSUS

State of Haryana and another

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Dinesh Babu Khurana, Advocate for
Mr. Rishi Pal Rana, Advocate for petitioner.

Mr. Gurmeet Singh, AAG Haryana.

Mr. Jagjit Singh, Advocate for
Mr. Gourav Jain, Advocate for respondent No. 2.

AVNEESH JHINGAN, J (ORAL)

This petition under Section 340 Cr.P.C. is filed for taking legal action against respondent No.2 for filing a false affidavit in this Court in CRM-M-21885 of 2016.

The facts in brief are that daughter of the petitioner solemnised marriage with respondent No.2 on 22.6.2016 against the wishes of their parents. They approached this Court seeking protection by filing CRM-M-21885 of 2016. In the petition it was claimed that date of birth of respondent No.2 is 15.10.1994. It is pleaded that respondent No.2 was not of the marriageable age when he solemnized the marriage and wrong date of birth was mentioned.

The order passed in CRM-M-21885 of 2016 is reproduced below:

"Affidavit of petitioner No.2 along with copy of marriage certificate filed today in Court is taken on record.

Respondent Nos.4 and 5 i.e. parents of petitioner No.1 are present in Court. The parties were given some time to interact.

Manisha and Tarsem, the petitioners before me, claim themselves to be major. They have pleaded that they have married against the

wishes of respondents No. 4 to 7 and seek protection to their life and liberty. They apprehend danger from respondents no. 4 to 7. They have placed on record photographs, Annexure P-3. The petitioners have submitted a representation dated 23.06.2016, Annexure P-4 to respondents no.2 and 3.

Without commenting upon the legality of the marriage and entering upon an exercise to evaluate the evidentiary value of the documents placed on the file, I dispose of the petition with directions to respondent no.2 to decide the representation of the petitioners, Annexure P-4 within a period of one month and grant the protection, if any threat to their life and liberty is perceived. It is made clear that this order shall not be taken to protect the petitioners from legal action for violation of law if any committed by them.

The petitioners request for safe passage up to bus stand, Chandigarh. Security Incharge of this Court shall make necessary arrangements in this regard. A copy of the order be supplied to him for compliance."

From the order passed, it is evident that the petitioner and his wife were given time by this Court to interact with their daughter. The petition was disposed of without commenting upon the legality of marriage, directions were issued to respondent No.2 to decide the representation wherein petitioners (in that case) alleged threat apprehension.

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)

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)

It is also to be considered 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.

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. Wrong mentioning of the age has not affected the relief given by this Court.

No case is made out for interference.

Dismissed.

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

27th September, 2022
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(AVNEESH JHINGAN)
JUDGE

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