

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

CRM-M-17473-2019

Date of Decision: 30th September, 2022

Bimla

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Sandeep Kumar Sharma, Advocate for the petitioner.
Mr. Gurmeet Singh, AAG, Haryana.

AVNEESH JHINGAN , J.(Oral)

1. This petition was filed under Section 340 Cr.P.C. to initiate an inquiry against respondents No.4 and 5 for committing perjury by filing a false affidavit in this Court in CRM-M-7010-2019.

2. The facts emerging from the pleadings are that daughter of the petitioner solemnized marriage with respondent No.4. They have approached this Court for seeking protection as the marriage was solemnized against the wishes of their parents.

3. The order passed in CRM-M-7010-2019 is reproduced below:-

“Both the petitioners are present in the Court and are identified by their counsel.

Petitioners have sought protection of their lives and liberty, inter-alia, taking the plea that they performed the marriage with each other, whereas private respondents are not accepting their marriage and now they are apprehending danger to their lives and liberty from private respondents.

Learned counsel for the petitioners contended that the petitioners performed marriage on 13.02.2019.

Petitioners have also taken the plea that they are major and have performed their marriage with free will.

Notice of motion.

On the asking of the Court, Ms. Tanushree Gupta, Deputy Advocate General, Haryana, accepts notice on behalf

of respondents No.1 to 3. A complete copy of paper-book be provided to her during the course of the day.

Having considered the submissions made by learned counsel for the petitioners and perusal of record, respondent No.2-Superintendent of Police, Bhiwani, District Bhiwani, is directed to consider the representation dated 13.02.2019 (Annexure P5) and issue necessary orders, as warranted by law, so as to ensure that no harm is caused to the life and liberty of the petitioners at the hands of private respondents.

However, it is also made clear that this order shall not be taken to validate the alleged marriage of the petitioners or entitle them for any protection against their arrest or continuance of any criminal proceedings, if they are found involved in the commission of any cognizable offence. In case, the petitioners had committed any offence, the law will take its own course.

With the aforesaid observations made and directions issued, the present petition stands disposed of.”

4. As per the petitioners, the date of birth of respondent No.5 was 10th August, 2001, however, while filing the petition forged copy of Aadhar Card was attached wherein the date of birth was shown as 12th February, 1998.

5. From the order passed in CRM-M-7010-2019 it is evident that this Court had not commented upon the validity of the marriage.

6. The Supreme Court in **R.S. Sujatha versus State of Karnatka 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.”

7. 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."

8. 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.

9. The proceedings under Section 340 Cr.P.C. are not required to be initiated in every case. Moreover, the Court has to look if it is expedient in the interest of justice to inquire into offence. It is to be considered whether party was able to get favourable order due to false statement.

10. No case is made out for interference.

11. Dismissed.

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

(AVNEESH JHINGAN)
JUDGE

29th September, 2022

Parveen Sharma

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No