

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

CRM-M-40026-2018

Date of Decision: 29th September, 2022

Sumita Bai

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Ms. Riffi Birla, Advocate for the petitioner.
Mr. Arun Luthra, DAG, Punjab.
Mr. Kamal Narula, Advocate for respondents No. 4 and 5.

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-37778-2018.
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-37778-2018 is reproduced below:-

“Prayer in this petition filed under Section 482 Cr.P.C. is for issuance of directions to respondents No.2 & 3 to protect the life and liberty of the petitioners at the hands of private respondents i.e. respondents No.4 to 7.

Learned counsel for the petitioners contends that the petitioners are major and have solemnized their marriage in accordance with law. However, respondents No.4 to 7 are not accepting their marriage and are adamant to separate them from each other by resorting to illegal means. Learned

counsel further submits that in view of imminent danger to the life and liberty of the petitioners, they had moved a representation dated 27.08.2018 (Annexure P-5) to respondent No.2 i.e. Senior Superintendent of Police, District Fazilka.

Notice of motion only to respondents No.1 to 3 at this stage.

At the asking of the Court, Mr. Surinder Pal Singh Tinna, Additional Advocate General, Punjab, accepts notice on behalf of these respondents.

Let requisite number of copies of paper book be given to learned State counsel during the course of the day.

In view of the above, without going into the validity of the marriage, the present petition is disposed of with a direction to respondent No.2 to take appropriate remedial measures, as warranted by law, on the representation dated 27.08.2018 (Annexure P-5) submitted by the petitioners.

In the meantime, necessary order be passed to ensure that no harm is caused to the life and liberty of the petitioners at the hands of respondents No. 4 to 7.”

4. Learned counsel for the petitioner submits that wrong date of birth of respondent No.5 was mentioned in the petition by forging her date of birth certificate to show her above 18 years. The contention is that respondent No.5 was not of marriageable age when the marriage was solemnized.

5. From the order passed in CRM-M-37778-2018 it is evident that this Court had not commented upon the validity of the marriage.

6. The only direction was given to respondent No.2 to take appropriate measures as warranted by law on the representation made dated 27th August, 2018.

7. 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.”

8. 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."

9. 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.

10. 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.

11. No case is made out for interference.

12. Dismissed.

13. 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
Whether reportable

Yes/No
Yes/No