

255 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-39599-2017

Date of Decision: 24th November, 2022

Raj Kumar

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Mohd. Yousaf, Advocate for the petitioner.
Mr. Jaiteshwar Singh, AAG, Punjab.

AVNEESH JHINGAN , J.(Oral)

1. This is a petition under Section 340 Cr.P.C for initiating criminal proceedings for submitting a false affidavit in CRM-M-30881 of 2017.

2. From the pleadings, it is forthcoming that respondent No. 4 solemnized marriage with the daughter of the petitioner (respondent No.5). The couple apprehending threat filed CRM-M-30881-2017 titled as '*Nisha and another Vs. State of Punjab and others*'.

On 30th November, 2017, following order was passed:-

“Learned counsel for the petitioners submits that presently, there is no threat to the life of the petitioners and seeks permission to withdraw the instant petition with liberty to file fresh one, if the petitioners feel any threat to their life and liberty in future.

Dismissed as withdrawn with aforesaid liberty.”

3. Learned counsel for the petitioner submits that respondent No.4 had filed a false affidavit that it was his first marriage whereas he was already married.

4. On a specific query from the Court, as to whether any legal proceedings were initiated qua the marriage, learned counsel for the petitioner submits that he has no instructions.

5. *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)*

5.1 *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 remediless. Any interpretation which leads to a situation where a victim of a crime is rendered remediless, has to be discarded."

...(emphasis supplied)

6. The proceedings under Section 340 Cr.P.C. are to be initiated only if it is expedient in the interest of justice to enquire into offence allegedly committed and not in every case. In case in hand no order in favour of the petitioners was passed in CRM-M-30881 of 2017, the petition was withdrawn. In facts of the present case no interference is called for the petition is dismissed.

**(AVNEESH JHINGAN)
JUDGE**

24th November, 2022

Parveen Sharma

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No