

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

Date of Decision: 12th December, 2022

1. CRM-M-8357-2017
Harjeet Kaur

... Petitioner

Versus

State of Punjab and others

... Respondents

2. CRM-M-889-2017

Sukhwinder Singh

... Petitioner

Versus

Lakhwinder Kaur and others

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Harkaran Singh, Advocate for the petitioner
in CRM-M-8357-2017
None for the petitioner in CRM-M-889-2017.
Mr. Shiva Khurmi, AAG, Punjab.

AVNEESH JHINGAN , J.(Oral)

1. These two petitions have been filed under Section 340 Cr.P.C.
CRM-M-8357 of 2017 filed by Harjeet Kaur first wife of Jagdeep Singh
(respondent No.2) and CRM-M-889 of 2017 filed by Sukhwinder Singh.

2. From the pleadings, it is forthcoming that Jagdeep Singh son
of Paramjeet Singh and Lakhwinder Kaur wife of Jagdeep Singh filed
CRM-M-45920 of 2016 in this Court for seeking directions to the official
respondents to protect lives and liberty of the petitioners as they had
solemnized marriage. The petition was disposed of on 22.12.2016 by
passing following order :-

*“Prayer in the present petition filed under Section 482
of the Cr.P.C. is for issuance of a direction to the
official respondents to protect the lives and liberty of the*

petitioners and not to harass them at the instance of respondent Nos.4 to 7.

Notice of motion.

At the asking of the Court, Mr.Sumandeep Singh Walia, DAG, Punjab, accepts notice on behalf of the respondent Nos.1 to 3.

The petitioners have got married against the wishes of their parents. They are stated to be major. The true copy of the marriage certificate is Annexure P-3. In support of her proof of age, petitioner No.1 has placed on record a copy of Aadhar Card (Annexure P-1) wherein her year of birth is mentioned as 1996, whereas petitioner No.2 has placed on record a copy of Aadhar Card (Annexure P-2) wherein his year of birth is mentioned as 1990. They have also moved a representation (Annexure P-5) before respondent No.2 – Senior Superintendent of Police, District Gurdaspur for protection of their lives and liberty.

Without adverting to the merits of the controversy, the present petition is disposed of with a direction to respondent No.2 – Senior Superintendent of Police, District Gurdaspur to take appropriate action on the said representation.

This order has nothing to do with regard to validity or invalidity of the marriage of the petitioners.”

3. The grievance in the present petitions is that Jagdeep Singh was already married to Harjeet Kaur and it was wrongly pleaded in the petition that it was his first marriage.

4. 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)

5. 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 remediless, has to be discarded."

...(emphasis supplied)

6. This Court while disposing of the petition had neither adverted on the merits of the controversy nor on validity of the marriage of the petitioners. Only the directions were given to Senior Superintendent of Police, District Gurdaspur to decide the representation.

7. 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 present case, no order in favour of the petitioners was passed, only directions were given to the SSP to consider representation. No interference is called for, the petitions are dismissed.

8. A photocopy of the order be placed on the file of connected case.

(AVNEESH JHINGAN)
JUDGE

12th December, 2022

Parveen Sharma

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No