

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34175 of 2021 (O&M)

DECIDED ON:29th September, 2022

Mahindro Bai

.....PETITIONER

VERSUS

State of Punjab and others

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Kamal Narula, Advocate for petitioner.

Mr. A.P.S. Tung, DAG Punjab.

Mr. Parminder Pal Singh, Advocate
for respondents No. 4 and 5.

AVNEESH JHINGAN, J (ORAL)

This petition under Section 340 Cr.P.C. is filed for taking legal action against respondent Nos 4 and 5 for deposing falsely in this Court in CRWP No. 6727 of 2021.

Petitioner is mother of respondent no.4, her daughter and respondent 5 had solemnised the marriage against the wishes of their parents. The contention of the learned counsel for the petitioner is that false statement was made before this court with regard to date of birth of respondent No.4. Her date of birth was 16th August 2005 and not 16th September 2005 as depicted in petition.

The order passed in CRWP No. 6727 of 2021 is reproduced below:

" Petitioners claim that they have attained majority and married against the wishes of their family members. Apprehending threat to their life and liberty, they have filed the present petition for protection.

Petitioners claim to have submitted a representation (Annexure P-4) dated 13.7.2021 in this regard to the Senior Superintendent of Police, District Fazlika.

Heard. Record perused.

Notice of motion to the office of Advocate General, Punjab.

On asking of the Court, Mr. Randhir Singh Thind, DAG, Punjab present in the Court, accepts notice on behalf of the State. Copy supplied.

The petitioners have placed on record copies of Aadhar Cards of petitioner Nos.1 and 2 (Annexures P-1 and P-2) as proof of their age and photographs (Annexure P-3) regarding performance of marriage.

This petition is disposed of with a direction to respondent No.3-SHO, Police Station Fazlika, Punjab that representation, if any, filed seeking protection of life and liberty, be got looked into and contents thereof be duly verified and if necessary, requisite steps be taken, strictly in accordance with law for grant of protection of life and liberty to the petitioners. It is made clear that this order shall not be treated as a stamp of this Court regarding validity of marriage of the parties."

The petition was disposed of without commenting upon the legality of marriage, directions were issued to respondent No.3 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 remediless. Any interpretation which leads to a situation where a victim of a crime is rendered remediless, 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.

29th September, 2022

reema

(AVNEESH JHINGAN)
JUDGE