

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-52899 of 2021

Date of Decision: 14th December, 2022

Rakesh Monga and others

Petitioners

Versus

State of Punjab and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Amarinder Kaur, Advocate for the petitioners.
Mr. Shiva Khurmi, AAG, Punjab.

AVNEESH JHINGAN, J (Oral):

1. This is a petition seeking initiation of proceedings under Section 340 Cr.P.C. against respondents No. 4 and 5 (arrayed in the petition) for concealing material facts from the court to obtain a favourable order dated 1.11.2021.

2. The facts emerging from the pleadings are that wife of petitioner No. 1 (respondent No. 4 in the present petition) along with respondent No. 5-Vicky filed CRWP No. 10262 of 2021 seeking direction to the official respondents to protect the life and liberty of the petitioners as they were living in live-in relationship. The grievance was that the representation was not being considered.

3. The petition was disposed of on 1.11.2021 directing Senior Superintendent of Police, Bathinda to consider the representation. The order dated 1.11.2021 is reproduced below:

“The present petition has been filed under Article 226 of

the Constitution of India with a prayer for issuance of a writ in the nature of mandamus directing respondents No.2 & 3 to protect the lives and liberty of the petitioners at the hands of private respondents.

Learned counsel for the petitioners has submitted that it is a case where petitioner no.1-girl was already married but she was being illtreated by her husband and when she wanted to take shelter from her parental home, she was refused to enter the house by her parents and thereafter, she had no other alternative but to get shelter from petitioner No.2 for herself and for her child. Learned counsel for the petitioners has submitted that the scope of the present petition is confined only to the extent of protection of lives of the petitioners as now the petitioner No.1 is staying with petitioner No.2. The petitioners have also given a representation vide Annexure P-3.

Notice of motion to respondents No.1 to 3 only.

Mr. Randhir Singh Thind, DAG, Punjab accepts notice on behalf of all above mentioned respondents and states that he has no objection in case, the representation (Annexure P-3) filed by the petitioners is considered and decided in accordance with law.

I have heard the learned counsels for the parties.

The scope of the present petition is confined only to the extent of grant of protection to the lives of the petitioners.

It is made clear that it does not in any way reflect anything upon the inter-se relationship of the petitioners No.1 and 2 or between the petitioners and the private respondents.

The petitioners are stated to have filed a representation (Annexure P-3) before the Senior Superintendent of Police, Bathinda.

In view of the facts and circumstances of the case, the present petition is disposed of with a direction to Senior Superintendent of Police, Bathinda to consider the representation (Annexure P-3) and to decide the same in

accordance with law within a period of ten days from the date of receipt of copy of this order."

4. The grievance raised in the present petition is that wife of the petitioner in that writ petition pleaded that she was having one child whereas actually she was mother of two children.

5. Notice of motion was issued.

6. Mr. Shiva Khurmi, AAG, Punjab appears on behalf of respondents No. 1 to 3.

7. None appears on behalf of respondent No. 5 inspite of service. For respondent No. 4, the office has reported that notice received back as she had left the given address.

8. 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).

9. 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]

10. 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.

11. The direction in writ petition was issued for considering the representation made by the petitioners. The alleged wrong pleading of fact that she was not mother of one child but two, has not affected the out-come of the petition as this court had not commented on the relationship of the petitioners in the writ petition. In such circumstances, no case is made out for interference.

12. The petition is dismissed.

13. Since the main petition has been dismissed, pending application, if any is rendered infructuous.

[AVNEESH JHINGAN]
JUDGE

14th December, 2022

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1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No