

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

**CRM-M-56374-2022**

**Date of Decision: 5<sup>th</sup> December, 2022**

Liyakat Ali

... Petitioner

Versus

State of Punjab and others

... Respondents

**CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Ms. G.K. Mann, Sr. Advocate with  
Ms. Simrat Kaur, Advocate for the petitioner.

Mr. APS Tung, DAG, Punjab.

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**AVNEESH JHINGAN , J.(Oral)**

1. This is a petition under Section 340 Cr.P.C for initiating action against respondents No. 5 and 6 for false pleading made in Criminal Writ petition No. 10882 of 2022 titled as “*Kian and another vs. State of Punjab and others*”.

2. From the pleading, it is forthcoming that the wife of the petitioner had solemnized marriage with Shamudin. The couple had approached this Court by filing a criminal writ petition seeking protection of life and liberty from the hands of private respondents (arrayed in that writ petition) including the petitioner in present case. In the writ petition, it was pleaded that it is a first marriage of the petitioners.

3. The contention raised is that the petitioners in the writ petition had not disclosed factum that they were already married. It was wrongly pleaded that it was first marriage.

4. Before proceeding further, in the writ petition the order dated 18.11.2022 is reproduced below :-

*the Constitution of India, is for issuance of directions to respondents No. 2 & 3 to provide protection of life and liberty to petitioners, who have married against the wishes of private respondents.*

*Learned counsel for petitioners submits that petitioner No.1 – Kian, aged about 26 years and petitioner No.2 – Shammu Deen, aged about 32 years, have got married on 14.11.2022, against the wishes of their family members, arrayed as respondents No.4 to 6. It has been further submitted that private respondents are threatening to interfere in the matrimonial life of petitioners. It is also submitted that both the petitioners herein are of the same religion i.e. Mohammedan. Hence, petitioners are seeking protection in that regard and have approached this Court by way of filing the instant petition. They have also submitted a representation dated 15.11.2022 (Annexure P-5) to respondent No.2 – Senior Superintendent of Police, Hoshiarpur, wherein, they have expressed their apprehension.*

*Notice of motion.*

*On asking of the Court, Mr.Anmol Singh Sandhu, AAG, Punjab, who is present in the Court, accepts notice on behalf of respondent Nos. 1 to 3 (State).*

*In view of the above, present petition is disposed of with a direction to respondent No.2 – Senior Superintendent of Police, Hoshiarpur, to look into the representation dated 15.11.2022 (Annexure P-5), qua threat perception and if there is any substance in it, take necessary steps, in accordance with law, to ensure that lives and liberty of petitioners is not jeopardized at the hands of the private respondent.*

*However, this direction will not validate the marriage said to have taken place between the parties and will have no effect on any civil or criminal action, which could be initiated in the matter in accordance with law.”*

5. The law is well settled that proceedings under Section 340 Cr.P.C. are to be initiated in exceptional circumstances and considering the impact of commission of offence upon the administration of justice. Reliance is placed upon the decision of the Supreme Court in “**R.S. Sujatha Versus State of Karnataka and others 2011(5) SCC 689**” wherein it has been 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."*

6. 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 rendered remediless, has to be discarded."*

...(emphasis supplied)

7. On a specific query during the hearing, the Court has been

informed that no civil or criminal action has been initiated by the petitioner against his wife or Shamudin.

8. From the perusal of the order dated 18.11.2022, it is forthcoming that the Court had not commented upon the validity of the marriage. The order passed had not affected the civil and criminal action which could have been initiated, only the directions were issued to the Senior Superintendent of Police concerned to look into the representation with regard to the threat perception.

9. After hearing learned Senior Counsel for the petitioner and after perusing the record, it is not found to be a fit case for initiating enquiry for making false pleadings in the writ petition. More so, when it has not effected the outcome of the writ petition.

10. The petition is dismissed.

(AVNEESH JHINGAN )  
JUDGE

5<sup>th</sup> December, 2022  
*anuradha*

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|---------------------------|--------|
| Whether reasoned/speaking | Yes/No |
| Whether reportable        | Yes/No |