

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRA-S-2406-2023 (O&M)

Date of Decision: *August 31, 2023*

Nitin

... Appellant

Versus

Sakshi

... Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Anand Singh, Advocate,
for the appellant.

Vivek Puri, J.

1. The appellant has assailed the order dated 29.07.2023 passed by the learned Family Court, Sonipat, vide which the application under Section 340 of the Code of Criminal Procedure (for short `Code') filed by the appellant, has been dismissed.

2. Learned counsel for the appellant contends that the respondent has instituted a petition under Section 125 of the Code for enforcement of her claim for maintenance. In the petition, she has concealed the fact to the effect that she is a qualified teacher and had been working as a teacher in Bhai Khem Chand S.D. Senior Secondary School, Sonipat. The respondent has submitted a false affidavit and is liable to be prosecuted for having committed the offence punishable under Sections 191, 193 and 195 of the Indian Penal Code (for short `IPC').

3. The application under Section 340 of the Code was resisted by the respondent, inter alia, on the score that she was doing B.Ed. course from D.C. Jain College and there was 4 months' compulsory training of teaching for B.Ed courses. The respondent was not working as a regular teacher.

4. Learned counsel for the appellant further contends that the respondent has concealed her income from her profession as a teacher and is liable to be prosecuted. The information was sought under Right to Information Act from Bhai Khem Chand S.D. Senior Secondary School, Sonipat which indicated that the name of the respondent has been mentioned at Sr. No. 19 as a teacher for a period w.e.f. 01.01.2019 to 30.04.2019.

5. The learned Family Court has dismissed the application under Section 340 of the Code by making the following observations:-

“7. At the very outset, it is worth to mention here that in this application, applicant has given several unnecessary details, which are not a part of this application under Section 340 of the Code of Criminal Procedure. He has been advised to be more careful in future and to refrain from mentioning unnecessary details in pleadings.

8. As far as concealment of facts of property and income as a teacher is concerned, it is

worth to mention here that respondent has come up with a specific case that she was undergoing B.Ed. Training and at that time, it was a part of her profession to impart teaching training.

9. Applicant has placed on record copy of information received under Right to Information Act, from Bhai Khem Chand S.d. Senior Secondary School, Sonipat wherein in the list of teachers the name of petitioner is mentioned at column no. 19 qua period w.e.f. 01.01.2019 to 30 April, 2019.

10. Respondent on the other hand also placed on record her training certificate from 1st December, 2018 to 31st March, 2019 and her experience certificate from 1st April, 2019 to 10th August, 2019. Though, there is difference of time in the record given by both the parties, yet in the facts of the case in hand, it can be fairly inferred that such like training or experience for a few months as a teacher cannot be taken as concealment of such fact, which need initiation of criminal action as has been sought through this application.

11. Furthermore, there is no specific averments mentioned by the applicant as to what ancestral movable or immovable properties have been inherited by the respondent. There is no document annexed along with application in this regard.

12. It shall be absolutely relevant to mention here that applicant husband has failed to furnish any affidavit of assets and liabilities so

as to give any documentary details qua alleged ancestral movable or immovable properties of respondent wife. In absence thereof, such a plea taken by the applicant is only an after though plea meant just to prolong the proceedings of this petition.

13. In the back-drop of these circumstances, this court has reason to believe that there is nothing on record which would show that it is expedient in the interest of justice that an enquiry as envisaged under Section 340 of the Code of Criminal Procedure be made. As such there is no merit in the application and as such there is no merit in the application.

Conclusion:-

14. As a sequel to above discussion, finding no merit, the application, same is hereby dismissed.”

6. The perusal of the aforesaid observations are indicative of the fact that the teaching programme was a part of curriculum of the B.Ed. course of the respondent. As such, it cannot be said that the respondent was gainfully employed for a period of 4 months during the period she was undergoing teaching training even thereafter.

7. Furthermore, the provisions of Section 340 of the Code can be invoked in the event the Court is of the opinion that it is expedient in the interest of justice that an enquiry should be made. It is only in glaring cases of deliberate falsehood that the direction should be issued to launch the

prosecution. The Court has to exercise the judicial discretion vested in it in the light of all the relevant circumstances to determine the question of expediency and order the prosecution in the larger interest of the administration of justice. The provision cannot be invoked to gratify the personal revenge or vindictiveness or vendetta of a party or to serve the ends of justice of a private party.

8. The material on record in the instant case indicates that there is a lack of prima facie case on deliberate falsehood and no reasonable and justified ground is made out to initiate the proceedings against the respondent. It is neither deemed expedient nor appropriate in the interest of justice to hold any enquiry and make a complaint against the respondent. It shall not be out of place to mention here that in the event any such exercise is carried out against the respondent, it will further aggravate the matrimonial dispute between the parties which may not be in the interest of justice.

9. In these set of circumstances, no illegality or irregularity is made out in the order passed by the learned Family Court, which may warrant interference by this Court.

10. The present appeal is dismissed, accordingly.

August 31, 2023
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(Vivek Puri)
Judge

Whether speaking/reasoned : Yes
Whether reportable : Yes