



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

129

CRM-M-30560-2024 (O&M)
Date of decision: July 1st, 2024

Ashima Garg

.....Petitioner

Versus

Anshul Gupta

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ranjeet K. Jaswal, Advocate
for the petitioner.

MANJARI NEHRU KAUL, J.

The instant application/petition has been filed under Sections 482 and 340 read with Section 195 of the Cr.P.C. for initiation of criminal proceedings under Sections 191, 193, 199 and 209 of the IPC against the respondent for filing a false income affidavit before this Court in CR No.6440 of 2016.

2. Learned counsel for the petitioner (wife) contends that she had initially filed an application before the Family Court in Gurugram seeking maintenance from the respondent-husband under Section 24 of the Hindu Marriage Act (hereinafter referred to as 'HMA'), which came to be dismissed by the learned Family Court without calling for an income affidavit from the petitioner. Subsequently, the petitioner approached this Court by way of a revision petition, CR No.6440 of 2016, challenging the aforementioned order, and during the pendency of proceedings before this Court, the respondent submitted a false income affidavit dated 14.10.2021. In support, learned counsel has drawn the attention of this Court to the affidavit Annexure P-1.

3. Learned counsel has further submitted that during the pendency of the aforementioned revision petition, petitioner was granted monthly maintenance under Section 125 of the Cr.P.C. by a Family Court in Delhi. Hence, she did not pursue the aforementioned revision petition before this Court, which came to be disposed of as not pressed. Learned counsel has still further argued that subsequently, it came to the notice and knowledge of the petitioner that the respondent had intentionally furnished false information with respect to his employment, salary, bank accounts, assets and liabilities in the income affidavit (Annexure P-1) with an oblique motive to reduce his maintenance obligation towards the petitioner and, therefore, in the circumstances, the respondent deserves to be tried for offences under Sections 191, 193, 199 and 209 of the IPC.

4. I have heard learned counsel for the petitioner and perused the relevant material on record.

5. No doubt, furnishing false evidence and filing false affidavit are serious offences, which must be effectively curbed, however, at the same time, initiating prosecution for perjury too readily or frequently without due care and caution, especially when the evidence is inconclusive or doubtful, should be frowned upon as the same undermines the judicial process. Prosecution should be ordered only when it is expedient in the interest of justice to punish the delinquent. A high threshold for perjury prosecution, requiring clear evidence must be evident. It would be apposite to refer to the observations made by Hon'ble the Supreme Court in *Aarish Asgar Qureshi Versus Fareed Ahmed Qureshi and another 2019 (18) SCC 172*, with respect to proceedings under Section 340 of the Cr.P.C.

which are as under:-

7) *The law under Section 340 on initiating proceedings has been laid down in several of our judgments. Thus in Chajoo Ram vs. Radhey Shyam, (1971) 1 SCC 774, this Court, in para 7, stated:*

“7. ... No doubt giving of false evidence and filing false affidavits is an evil which must be effectively curbed with a strong hand but to start prosecution for perjury too readily and too frequently without due care and caution and on inconclusive and doubtful material defeats its very purpose. Prosecution should be ordered when it is considered expedient in the interests of justice to punish the delinquent and not merely because there is some inaccuracy in the statement which may be innocent or immaterial. There must be prima facie case of deliberate falsehood on a matter of substance and the court should be satisfied that there is reasonable foundation for the charge.”

6. Thus, what can also be culled out from the aforementioned observations of the Hon’ble Apex Court is that a careful and balanced approach is required while dealing with prosecution for perjury and it should be only in exceptional circumstances that proceedings under Section 340 of the Cr.P.C. should be initiated. The proceedings can only be initiated if the Court believes that a party has intentionally committed perjury to gain a favourable order. Such severe actions, like prosecution under Section 340 of the Cr.P.C. should serve the broader interest of justice and must not be exploited for personal vendetta, especially in matrimonial disputes.

7. Adverting to the instant case, admittedly, the affidavit (Annexure P-1) in question dates back to the year 2021, and still further, it is also a matter of record, and as not disputed by the learned counsel for the petitioner, the petitioner did not contest, much less even bring to the attention of the Court during the pendency of the revision

petition i.e. CR No.6440 of 2016, about the alleged false information furnished by the respondent in his affidavit. Even otherwise, no order much less favourable was passed by this Court as the revision petition was dismissed as not pressed pursuant to a request made by the petitioner herself.

8. As a sequel to the above, this Court does not find any merit in the submissions made by the learned counsel for the petitioner.
9. The instant petition, therefore, stands dismissed.

July 1st, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No