



CRM-M-36372-2016

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

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**CRM-M-36372-2016
Decided on: 02.07.2025**

Shankar Sharma

...Petitioner(s)

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Neha Jain, Advocate for
Mr. K.S. Dadwal, Advocate
for the petitioner.

Ms. Pooja Nayar Sharma, DAG, Punjab.

Mr. Vijay Lath, Advocate
for respondents No.5 & 6.

ANOOP CHITKARA, J.

1. Seeking initiation of inquiry and prosecution of private respondents No.5 & 6 for filing a wrong affidavit before this Court, the petitioner had come up before this Court by filing the present petition under Section 195 CrPC r/w 340 CrPC in the year 2016.
2. In a nutshell, the petitioner's grievance is that respondent No.5 performed marriage, sought protection, and procured an order dated 30th August 2016 in CRM-M-30457 of 2016 by claiming that she was a widow and her husband (Shankar Sharm, present petitioner) had died.
3. Petitioner claims that he was married to respondent No.5 on 29th April 2005, and from the wedding, they got two children, both of whom were sons.
4. Respondent No.6 was residing in their vicinity and was on visiting terms in the petitioner's house and was treating respondent No.5, i.e., the wife of the petitioner, as his sister.
5. The petitioner further claims that he was unaware of the illicit relationship of his wife (respondent No.5) with respondent No.6 and on the night of 27th August, 2016, respondent No.5 gave sleeping pills to him and also to children, and after that ran from the house, taking with her all the valuable articles and jewelry. While leaving, they also bolted the door from the outside, and as such, the petitioner could not raise an alarm until the morning.



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6. Respondents Nos. 5 and 6 filed a protection petition by claiming that respondent No.5 was married to Shankar Sharma, who had expired on 16th February 2014, whereas, at that very time, petitioner-Shankar Sharma was residing in their vicinity. Based on such a petition, the respondents Nos. 5 and 6 were able to obtain an order dated 30.08.2016 (Annexure P-4).

7. The petitioner has also annexed a copy of the protection petition filed by respondents 5 and 6, which was registered as CRM-M-30457 of 2016. A perusal of the said petition reveals that protection was sought from Ramesh Chander Sharma, Pushpa Devi, and Arun Sharma (respondents Nos. 4 to 6 in the protection petition) and not from the present petitioner. In paragraph 4 of the said petition, it is mentioned that Petitioner No. 1 was married to Shankar Sharma, who passed away on 16th February 2014. On the face of it, this fact is incorrect, false and was mentioned to procure the desired order from this Court.

8. Vide order dated 30th of August 2016, a coordinate Bench of this Court passed an order by directing the second respondent to take necessary action on the representation made by the petitioners (respondents No.5 & 6 herein) to him. It was clarified in the said order, “without expressing any opinion with regard to the validity of marriage and on the merits of assertions made in the petition, the instant petition is disposed of.”

9. A perusal of the protection petition clearly mentions that in the said protection petition, the petitioner was shown to be dead and the protection was sought from three different persons as named above. The petitioner’s grievance should have been that the marriage was performed by claiming the petitioner as dead, and even at the time of filing the protection petition, the fact of the petitioner having been dead was duly mentioned; however, the protection was not sought against the petitioner because he was shown to have been dead. As such, no prejudice could have been caused to the present petitioner under any circumstances. If any person had an objection or could be prejudiced, they may be respondents Nos. 4 and 6, as arraigned in the said protection petition. Furthermore, this court did not decide the petition on the merits, but instead disposed it, without commenting on the validity of the marriage, only the representation was to be decided. Even if petitioners (in protection petition) had made an expressly wrong averment about the factum of death of the petitioner herein, still, it did not impact the outcome of the order passed by this court because the order was not on merits of the petition, but was to direct the concerned person to decide the representation on its own merits.

10. In paragraph 8 of protection petition, it has been explicitly mentioned that respondents No.5 & 6 performed marriage and they have also annex the copies of marriage certificates & photographs as Annexures P-3 & P-4, whereas, respondent No.5 was already



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married which is a different penal offence, which was made out against respondent No.6, for marrying to an already married lady. The remedy was fully prescribed under Indian Penal Code, but instead of availing the said remedy, the petitioner also wants to involve this Court by initiating proceedings for making the wrong averment in the petition that husband of respondent No.5 i.e. Shankar Sharma (present petitioner) had expired so that respondent No.6 could become competent to perform second marriage. In paragraph 11, it has been explicitly mentioned that there was a threat at the hands of respondents No. 2 and 3 at the behest of respondents 4 to 6, and they sought protection for their lives.

11. Self-preservation is the most important of all basic instincts of any human being. People go to any extent for self-preservation. In the present case, there was no reason for the respondents, Nos. 5 and 6, to have approached this Court unless they had some apprehension or danger to their lives. Needless to say, such apprehension could have been misconceived, false, or only presumptive; however, the instinct to save someone's life is so strong that people would not like to take any risk. Furthermore, it cannot be ruled out that incorrect legal advice is often given to runaway couples and individuals like these, which is a very real possibility given the large number of such petitions filed, not only in this court but also before the district courts.

12. Given above and in the entirety of facts and circumstances peculiar to this case, this Court does not want to be involved in this personal matter between the petitioner and respondents Nos. 5 & 6, and by observing that the petitioner had a specific legal remedy and they could have availed it if they had not already done so.

13. Given the above, the petition is dismissed. Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

02.07.2025
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Whether speaking/reasoned:	Yes
Whether reportable:	NO.