

CRM-M-22305 of 2025

2025:PHHC:057711



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

CRM-M-22305 of 2025
Date of Decision: 28.04.2025

Gurmeet Kaur

..... Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Hardeep Singh, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, DAG, Haryana.

NAMIT KUMAR, J.

1. Instant petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for issuance of directions to respondent No.2-learned Additional Principal Judge, Family Court, Yamuna Nagar at Jagadhri, to decide complaint No.CRM19/2023 dated 09.01.2023 under Section 340 read with Section 195 Cr.P.C. filed by the petitioner.

2. Learned counsel for the petitioner contended that marriage between the petitioner and Avtar Singh was solemnized on 15.10.1987 and due to continuous torture and harassment by her husband Avtar Singh, petitioner along with her son (since deceased) started living separately since May, 2015. He further contended that due to bitterness in their relationship, petitioner initiated proceedings under the provisions of Protection of Women from Domestic Violence Act, 2005 against her husband and also filed



application under Section 125 Cr.P.C. seeking interim maintenance from him. He contended that the said application has wrongly been dismissed by learned Additional Principal Judge, Family Court, Yamuna Nagar at Jagadhri, vide order dated 26.08.2022. He further contended that against the said order revision petition being CRR(F)-904 of 2022 is pending consideration before this Court, which is fixed for hearing on 31.07.2025. Learned counsel further contended that thereafter petitioner filed an application under Section 340 read with Section 195 Cr.P.C. before the Family Court to enquire and initiate legal proceedings against husband of the petitioner for knowingly committing the offence of perjury by deliberately concealing the facts of his actual income, assets and liabilities, which is pending consideration. He has submitted that respondent No.2-Additional Principal Judge, Family Court, Yamuna Nagar at Jagadhri, may be directed to decide the said application.

3. I have heard learned counsel for the petitioner and perused the record.

4. Present petition emanates from matrimonial dispute between the petitioner and her husband-Avtar Singh. The grievance of the petitioner is that her application under Section 125 Cr.P.C. seeking interim maintenance has wrongly been dismissed by the learned Family Court vide order dated 26.08.2022 on the basis of false affidavit submitted by her husband. Therefore, the petitioner has filed application under Section 340 read with Section 195 Cr.P.C., which is pending consideration before learned Additional Principal Judge, Family Court, Yamuna Nagar. Instead of



impleading her husband, petitioner has arrayed Additional Principal Judge, Family Court, Yamuna Nagar at Jagadhri, as respondent No.2 in the present petition.

5. Section 3(1) of the Judges (Protection) Act, 1985 reads as under:-

“3. Additional protection to Judges. – (1) Notwithstanding anything contained in any other law for the time being in force and subject to the provisions of sub-section (2), no court shall entertain or continue any civil or criminal proceeding against any person who is or was a Judge for any act, thing or word committed, done or spoken by him when, or in the course of, acting or purporting to act in the discharge of his official or judicial duty or function.”

6. Section 1 of The Judicial Officers Protection Act, 1850 reads as under: -

“1. Non-liability to suit of officers acting judicially, for official acts done in good faith, and of officers executing warrants and orders. - No Judge, Magistrate, Justice of the Peace, Collector or other person acting judicially shall be liable to be sued in any civil court for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction: Provided that he at the time, in good faith, believed himself to have jurisdiction to do or order the act complained of; and no officer of any Court or other person, bound to execute the lawful warrants or orders of any such Judge, Magistrate, Justice of the Peace, Collector or other person acting judicially shall be liable to be sued in any Civil Court, for the execution of any warrant or order, which he



would be bound to execute, if within the jurisdiction of the person issuing the same.”

7. The Hon’ble Supreme Court in ***Savitri Devi v. District Judge, Gorakhpur and others, 1999(2) SCC 577*** has held as under: -

“14. Before parting with this case it is necessary for us to point out one aspect of the matter which is rather disturbing. In the writ petition filed in the High Court as well as the Special Leave Petition filed in this Court, the District Judge, Gorakhpur and the 4th Additional Civil Judge (Junior Division), Gorakhpur are shown as respondents and in the Special Leave Petition they are shown as contesting respondents. There was no necessity for impleading the judicial officers who disposed of the matter in a civil proceeding when the writ petition was filed in the High Court; nor is there any justification for impleading them as parties in the Special Leave Petition and describing them as contesting respondents. We do not approve of the course adopted by the petitioner which would cause unnecessary disturbance to the functions of the concerned judicial officers. They cannot be in any way equated to the officials of the Government. It is high time that the practice of impleading judicial officers disposing of civil proceedings as parties to the writ petitions under Article 226 of the Constitution of India or Special Leave Petitions under Article 136 of the Constitution of India was stopped. We are strongly deprecating such a practice.”

8. A Judicial Officer cannot be impleaded as a party when he had not performed any executive function. All the judicial functions discharged by him can be challenged only by way of appeal or revision before the appellate or revisional forum concerned. The Civil Judge and the District Judge, who decide a matter, are not required to defend their order before this



Court, therefore, this petition suffers from the defect of mis-joinder and non-joinder of necessary parties.

9. In view of above, present petition, being bad for non-joinder and mis-joinder of necessary parties, is dismissed with costs of Rs.25,000/- to be deposited with the State Legal Services Authority, Haryana within two months from today. If the costs are not paid, the same shall be recovered from the petitioner as arrears of land revenue.

28.04.2025
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No