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

CRA-S-3391-2024 (O&M)

Decided on: 16.01.2025

Ajay Kumar

..... Appellant

Versus

Renu Bala

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Sumit Dua, Advocate, for the appellant.

Rajesh Bhardwaj, J.**CRM-41256-2024**

For the reasons mentioned in the application, the same is allowed. The delay of 14 days in filing the appeal is condoned.

Main case

1. Present appeal has been filed by the appellant impugning the order dated 31.07.2024, passed by the Principal Judge, Family Court, Hoshiarpur, vide which the trial Court disposed of the application under Section 340 Cr.P.C. without initiating any action against the respondent.

2. Present case had arisen out of family dispute between the appellant and the respondent. An application under Section 340 Cr.P.C. read with Section 195 Cr.P.C. was filed before learned Principal Judge, Family Court, Hoshiarpur for taking action by way of filing criminal complaint under Sections 195, 196, 199, 200 IPC against the respondent. Learned Family Court after hearing both the sides, dismissed the same vide impugned order dated 31.07.2024. Hence, aggrieved by the same, the appellant is before this Court by way of filing the present appeal.



3. It has been submitted by learned counsel for the appellant that the appellant was residing in UK and looking for a suitable match for him. He submits that the appellant agreed to get married with the respondent on finding her suitable partner. He submits that the appellant got married with the respondent without dowry at marriage palace by bearing the expenses of both sides. However, after having been married with the respondent, he came to know that the respondent was not educated as told to him before marriage. He also found the age of the respondent about to be 40 years and it was found on getting her checked that she was going through menopause. He, thus, submits that the family of the respondent committed fraud by quoting wrong date of birth and age of the respondent. He submits that the appellant found the respondent to be unable to bear the child and thus, the appellant got her medically treated from IVF Hospitals, which remained unsuccessful and total expenses incurred on the appellant i.e. Rs.2.25 lacs was borne by the appellant. He submits that realizing the fraud committed with the appellant, he filed a petition under Section 12 of the Hindu Marriage Act for annulment of marriage. He further submits that the respondent filed a petition under Section 125 Cr.P.C. against the appellant. He has vehemently contended that the respondent committed forgery regarding her age and education. He, thus, filed an application under Section 340 Cr.P.C. for taking action against the respondent, however, learned Family Court miserably failed to appreciate the law settled and dismissed the same vide impugned order dated 13.07.2024, which is unsustainable in the eye of law and deserves to be set aside by allowing the



application under Section 340 Cr.P.C.

4. The Court has heard learned counsel for the appellant and perused the record. The precise issue raised by the appellant in the present appeal is that the appellant got married with the respondent by assuming the facts as correct regarding her age and qualification as told to him prior to the marriage. However, after marriage he found that the respondent had committed forgery regarding her age and qualification. Thus, he filed an application under Section 340 Cr.P.C. The issue, thus, involved in the present appeal is whether the Family Court could initiate the proceedings under Section 340 Cr.P.C.

5. For proper adjudication of this case, appreciation of Section 340 Cr.P.C is necessary, which read as under:

“340. Procedure in cases mentioned in Section 195.

(1) When upon an application made to it in this behalf or otherwise any Court is of opinion that it is expedient in the interest of justice that an inquiry should be made into any offence referred to in clause (b) of sub-section (1) of section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary, -

(a) record a finding to that effect;

(b) make a complaint thereof in writing;

(c) send it to a Magistrate of the first class having jurisdiction;

(d) take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non-bailable and the Court thinks it necessary so to do, send the accused in custody to such magistrate; and



(e) bind over any person to appear and give evidence before such Magistrate.

(2) The power conferred on a Court by sub-section (1) in respect of an offence may, in any case where that Court has neither made a complaint under sub-section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of sub-section (4) of Section 195.

(3) A complaint made under this section shall be signed, -

(a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;

(b) in any other case, by the presiding officer of the Court [or by such officer of the Court as the Court may authorise in writing in this behalf.] *[Substituted by Act 2 of 2006, Section 6, for Cl. (b) (w.e.f. 16-4-2006). Prior to its substitution, Cl (b) read as under : - [(b) in by other case, by the presiding officer of the Court].]*

(4) In this section, "Court" has the same meaning as in Section 195.

6. There is no gainsaying that if at, all any forgery had been committed by the respondent regarding her age and qualification, the same was not in the record in front of the Court. The alleged forgery or misrepresentation has been made by the respondent regarding her age, qualification etc. before the petitioner and not before the Court by providing any forged document. Hon'ble Supreme Court in case of **Iqbal Singh Marwah vs. Meenakshi Marwah, (2005) 4 SCC 370** has held that in view of the language used in Section 340 Cr.P.C., the Court is not bound to make a complaint regarding the commission of an offence referred to in Section 195(1)(b) Cr.P.C. 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



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course will be adopted only if the interest of justice requires the Court to so do and not in every case.

7. A perusal of the impugned order would show that learned Family Court had disposed of the application with liberty to the appellant to file fresh application, if any false evidence is adduced by the respondent in the petition filed under Section 125 Cr.P.C.

8. Weighing the facts and circumstances of the case on the anvil of law settled, this Court does not find any infirmity in the impugned order passed. Hence, the present appeal being devoid of any merit, is hereby dismissed.

16.01.2025	(RAJESH BHARDWAJ)
sharmila	JUDGE
Whether Speaking/Reasoned	: Yes/No
Whether Reportable	: Yes/No