



2025:DHC:9680



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 03rd November, 2025+ **CRL.A. 1508/2025, CRL.M.A. 32202/2025 (Exemption),
CRL.M.A.32203/2025 (Exemption), CRL.M.A.32204/2025 (delay)****DR. KIRTI SHARMA**

W/o Dr. Kapil Parashar

.....Appellant

Through: Ms. Monika, Advocate.

versus

DR. KAPIL PARASHA

S/o Sh. Rakesh Sharma

.....Respondent

Through: None

CORAM:**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****JUDGMENT (oral)**

1. Criminal Appeal under Section 341 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.PC'*)/Section 380 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'B.N.S.S.'*) and Section 528 of B.N.S.S., has been filed on behalf of the Appellant, Dr. Kirti Sharma, against the Order dated 31.05.2025 of learned Principal Judge, Family Courts, North District, Rohini Courts whereby her Application under Section 340 read with Section 200 Cr.PC, has been dismissed.

2. The attending facts and circumstances germane to the adjudication of the Appeal, are that the Appellant and Respondent Dr. Kapil Parasha got married on 11.05.2011 at Aligarh, Uttar Pradesh, according to Hindu rites and customs. Post-marriage, serious matrimonial disputes arose between the



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parties due to the Respondent's alleged acts of cruelty, harassment and unlawful demands for dowry. FIR No. 62/2013 under Section 498A/406/34 of the Indian Penal Code, 1860 (*hereinafter referred to as 'IPC'*) and under the Dowry Prohibition Act, was registered at Police Station CWC, Nanakpura, Delhi. Thereafter, Charges under Section 498A and 406 IPC, were framed in which the Respondent is facing trial.

3. The Respondent instituted HMA No. 586/2012 on 07.11.2012, before the District Court at Alwar, Rajasthan seeking dissolution of marriage. The Appellant filed *Transfer Petition (Civil) No. 638/2013* before the Hon'ble Supreme Court of India and *vide* Order dated 08.10.2013, the HMA Petition was transferred to Family Court, Rohini, Delhi and was renumbered as HMA No. 789/2013.

4. During the pendency of the matrimonial proceedings, the Respondent under solemn affirmation, had filed the original divorce Petition as well as the Replication. It is asserted that there were material misrepresentations, false averments and fabricated particulars mentioned in the pleadings. The falsehoods pertained to:

- (i) **Place of solemnization of marriage:** Initially, it was pleaded that the marriage took place at Etah, Uttar Pradesh but subsequently in the Replication, it was stated as Aligarh, Uttar Pradesh, without moving any Application under Order VI Rule 17 of the Code of Civil Procedure (*hereinafter referred to as 'CPC'*).
- (ii) **Period and place of cohabitation:** It is submitted that the Respondent had given multiple and mutually destructive



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versions, the timelines, which were wholly irreconcilable in the pleadings filed by him and in connected judicial proceedings, thereby disclosing a clear pattern of falsehood and deliberate misrepresentation. The clarification given in Paragraph 7 of the Replication, substituting the address C-523, Vijay Nagar, Alwar to C-580, Budh Vihar, Alwar, is a self-serving afterthought. The so-called rectification about the address situated within the same municipal jurisdiction of Alwar, rendered the Respondent's attempt at explanation, illusory and demonstrative of his intent to mislead the Court. Moreover, such rectification does not in any manner rebut or affect the specific allegation made on Oath in the Petition that the Petitioner had failed to clarify that she had returned to him in the last week of November, 2011 whereby they took a house on rent in Alwar, Rajasthan and resided together from 25.11.2011 to 21.12.2011. Likewise, in Paragraph 6 of the Divorce Petition, it was averred that on 01.01.2012, the wife had assaulted the husband, removed the entire astrakhan and cash amounting to Rs.35,000/-, kept in the almirah and left the matrimonial home. These contradictory statements, being material to the proceedings, constitute *prima facie* offences under Sections 191/192/193 IPC thereby warranting initiation of perjury proceedings under Section 340 CrPC.

- (iii) **Parental dependency:** The Respondent had asserted that his parents were dependent upon him, despite incontrovertible



evidence that his father is a retired Bank Manager drawing a pension and gainfully employed at Muthoot Finance in Moradabad.

- (iv) **Residential address:** The Respondent deliberately furnished a false and fictitious address as C-523, Budh Vihar, Alwar, which upon verification, was found to be a vacant plot as revealed in Dasti Summons, directed by the Hon'ble Apex Court, to be served in connection with the Transfer Petition. This was again the husband's deliberate, *mala fide* and calculated attempt to mislead this Court and to obstruct the course of justice.
- (v) **Jurisdictional averments:** There was misrepresentation in the Divorce Petition that the matrimonial home was at Alwar and they last resided in the rented accommodation till last week of November, 2011, whereas they admittedly cohabited on 06.10.2011 in Alwar, as has been stated in a Reply to Divorce Petition thereby raising a false jurisdictional claim.

5. After filing of Replication and framing of issues, Respondent/husband was given three opportunities to adduce evidence. The last opportunity was given *vide* Order dated 17.12.2014 and cost of Rs.2,000/- was imposed. Despite this indulgence, no evidence whatsoever was led by husband. Finally, on 18.05.2015, the Respondent sought withdrawal of the Case, which was opposed by her. The learned Trial Court permitted the withdrawal, after payment of cost of Rs.10,000/- to the wife. At the time of withdrawal, the Respondent made a categorical statement that he was



making the statement out of free will and accord without force or coercion.

6. However, in his subsequent Written arguments filed in the proceedings under Section 340 CrPC, he again did not desist from misleading the Court and abusing the process of law. He falsely asserted that during a private conversation, the wife had expressed willingness to amicably settle the matter if the husband withdrew the Petition. Thus, the statement made in writing, is contrary to the earlier voluntary statement made on record, which is manifestly untrue and demonstrates a continued, deliberate attempt to mislead the Court.

7. It is further submitted that in the Replication, in Paragraph 7, it has been asserted that he was “*pre-occupied with his professional work*” while in the same Paragraph, he had claimed that he was “*unwell*”. These were self-contradictory statements.

8. During his cross-examination in the second Divorce Case, he deposed that the Second Divorce Petition HMA 48/2017 was filed by the Respondent/husband after unilateral withdrawal of the first Divorce Case in 2015. He admitted that he was working with the World Health Organisation (WHO) during November, 2012, the month in which the First Divorce Petition was filed by him.

9. It is claimed that these statements were not incidental but demonstrated a pattern of calculated misrepresentation. Consequently, the Petitioner/wife had filed an Application under Section 340 CrPC, pointing out these false statements, fabricated facts and incorrect particulars in first HMA No. 586/2012 especially in regard to the date of solemnization of marriage and other material averments.



10. The learned Principal Judge, Family Court, Delhi, dismissed the Complaint under S.340 Cr.P.C. *vide* impugned Order dated 31.05.2025.

11. The same is challenged ***on the ground*** that the learned Court erred in holding that the perjury was not “*expedient in the interest of justice*” to pursue the matter. The reliance has been erroneously placed on *Iqbal Singh Marwah & Anr. vs. Meenakshi Marwah & Anr.*, (2005) 4 SCC 370 and has failed to appreciate that the acts of the Respondent had directly impeded the administration of justice by influencing judicial outcomes. These are not “inadvertent errors” and are not even *bona fide*, but were false pleadings and the offence of perjury stood committed. The learned Trial Court has erroneously termed it as *personal vendetta* and imposed the cost on the Petitioner, without appreciating the seriousness of the allegations. A prayer is, therefore, made that this Order may be set-aside.

Submissions heard and the record perused.

12. Section 340 CrPC provides that when a Complaint is made under any offence referred to in Section 195 CrPC, it may be forwarded to the Court of learned Magistrate, to be disposed of in accordance with law. Section 195 CrPC deals with the offences from Section 172 to Section 188 IPC and Section 193 to 196, 199, 200, 205 to 211 and 228, when the offence is alleged to have been committed *in relation to any proceedings in the Court*.

13. The jurisdiction under Section 340 is further circumscribed with the condition that only if the Court is of the opinion that *it is expedient in the interest of justice*, it may direct such enquiry. This aspect was considered in the Case of *Iqbal Singh Marwah & Anr.* (supra), wherein it was observed that the language of Section 340 CrPC, shows that a course under Section



340 CrPC, is only to be adopted if it is in the interest of justice. This expediency would normally be judged by the Court by weighing not the magnitude of injury suffered by the person affected by such forgery or forged document but must have regard to its effect or impact.

14. Similarly, in Patel Laljibhai Somabhai vs. The State of Gujarat, the Apex Court has analysed the objective of enacting Section 195(1)(b) and (c) and Section 376/340 CrPC and observed that for the offences about which the Court alone, to the exclusion of the aggrieved private parties, is clothed with the right to complain, may appropriately consider whether those offences having been committed by the party in the proceedings before that Court and such commission has a close nexus with the proceedings of the Court, and may direct an inquiry on being satisfied as *to the expediency of prosecuting the delinquent party*.

15. Likewise, the Hon'ble Supreme Court of India in the Case of Santokh Singh vs. Izhar Hussair and Anr. that every incorrect statement does not make it incumbent upon the Court to Order Prosecution; the judicial discretion has to be exercised in the light of all relevant circumstances to determine the question of expediency.

16. In the present case, first and foremost, what has been highlighted by the Petitioner, are some incorrect mentioning of the date of marriage and the residence of the husband. It had been incorrectly mentioned that the marriage got solemnised at Etah, Uttar Pradesh but in the Replication, this fact was corrected.

17. It is further submitted that there were some inherent contradictions in the pleadings taken by the husband, as have already been highlighted. It is



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pertinent to note that the contradictions that have been highlighted in the Plaint and Replication, were factual and in fact and there was no dispute in regard to the place of marriage or the residence of the parties. Furthermore, this case ultimately got withdrawn by the husband on 15.05.2015 for which, a cost of Rs.10,000/- was imposed, which was duly accepted by the wife.

18. Not only this, they both filed their respective Divorce Petitions in the year 2017 and the Petition for Divorce filed by the wife, has now been allowed *vide* Judgment dated 08.09.2025. The learned Principal Judge, Family Court, Delhi, had rightly observed that the husband had made some errors in the Plaint, which to some extent, were rectified in the Replication. It is not a case wherein *it is expedient or in the interest of justice for the Court*, to initiate the proceedings under Section 340 CrPC.

19. The learned Principal Judge, Family Court, Rohini, Delhi, has rightly dismissed the Application under Section 340 CrPC. There is no merit in the present Appeal, which is hereby dismissed. Pending Applications, if any, also stand disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

NOVEMBER 3, 2025/RS