



2025:DHC:3701



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

Judgment reserved on: 03.02.2025

Judgment pronounced on: 13.05.2025

+ **CRL.M.C. 3151/2018**

SH. ASHISH SINGH

.....Petitioner

Through: Petitioner in person.

versus

PUSHPA SINGH

.....Respondent

Through: Mr. S.S. Rawat, Ms. Supriya Juneja,
Adv. with the Respondent in person.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

J U D G M E N T

: **JASMEET SINGH, J**

1. This is a petition filed under Section 482 of the Code of Criminal Procedure, 1973 (“Cr.P.C.”) to allow the applications under Section 340 of the Cr.P.C., regarding the offence of cheating and fraud committed by the respondent by filing false and frivolous affidavits, in the following cases:

A. Case No. CC-326/2017, under Section 125 of the Cr.P.C.;

B. Case No. H.M.A.-403/2017, under Section 13(i)(ia) of the Hindu



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Marriage Act, 1955 (“HMA”);

- C. Case No. 219/2017, under Section 125(3) of the Cr.P.C.;
 - D. Case No. 220/2017, under Section 125(3) of the Cr.P.C.;
 - E. F.I.R. No. 713/2011 under Sections 498-A, 406 and 34 of the Indian Penal Code, 1860 (“IPC”);
 - F. Case No. 90/2011, under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (“PWDV”); and
 - G. Case No. 413/2016, under Section 200 of the Cr.P.C.
2. In addition, the petitioner has also prayed for this Court to give directions to the concerned courts for expeditious disposal of the above mentioned legal proceedings.

FACTUAL BACKGROUND

- 3. The brief facts of the case as per the petitioner are that on 09.05.2004, marriage was solemnised between the parties. The marriage lasted for 13 years, during which the respondent frequently left the petitioner, resulting in them living together for only staggered 10-11 months.
- 4. In the present case, due to the acrimonious matrimonial relation between the parties, there exists a long list of disputes between the parties, which are neither germane nor relevant to the issue in controversy in the petition and thus, the same are not adverted to.
- 5. It is stated that when the petitioner refused to give into the demands of the respondent, the respondent retaliated by filing false cases against him and by harassing him and his family members.
- 6. On 17.01.2013, the respondent was granted interim maintenance by the



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learned MM, Karkardooma, Delhi. It is stated that due to the stress from his personal life and workplace issues, the petitioner was terminated from employment on 17.01.2014. Consequently, on 20.05.2014, the petitioner filed an application under Section 127 of the Cr.P.C. seeking to alter or cancel the said maintenance order. On 15.10.2014, he filed another application under Section 125(5) of the Cr.P.C. for the cancellation of the previous order.

7. On 16.11.2015, the petitioner filed his first application under Section 340 of the Cr.P.C. in maintenance petition, being CC-326/2017, alleging that the respondent was concealing facts in her affidavit. It is stated that the mother of the respondent supported the petitioner on the same.
8. On 07.07.2016, the petitioner submitted a second application under Section 340 of the Cr.P.C. in the same maintenance petition, again alleging concealment of facts by the respondent in her affidavit.
9. On 09.07.2016, he also filed objections against Ex. Petition No. 219/2017, citing similar concerns about the false claims of the respondent and her liability for prosecution under Section 340 Cr.P.C.
10. Subsequently, this Court issued an order in TR.P.(CRL.) 2/2017, directing the concerned trial court to expedite the case.
11. On 01.11.2017, the petitioner filed objections against Ex. Petition No. 220/2017, citing concealment of facts in the affidavit of the respondent. It is again stated that the respondent had made false claims and was liable for prosecution under Section 340 of the Cr.P.C.
12. Aggrieved in the said legal proceedings, the petitioner has filed the present petition.



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SUBMISSIONS ON BEHALF OF THE PETITIONER

Case No. H.M.A.-403/2017, under Section 13(i)(ia) of the Cr.P.C.

13. It is stated that in the said case, the reply of the respondent dated 24.10.2013 is false. In the said reply, the respondent claimed that she wished to hand over their minor daughter to the petitioner, however alleged that the petitioner is refusing to accept her. The petitioner contends that this statement is incorrect and false, as it is the petitioner who is actively seeking custody of his daughter through the court and the respondent has deliberately kept his daughter away from him.

Case No. 219/2017, under Section 125(3) of the Cr.P.C.

14. It is stated that in the said case, the respondent has not approached the courts with clean hands and has concealed material facts. On 15.10.2014, the petitioner filed an application under Section 125(5) of the Cr.P.C. for the cancellation of the previous interim maintenance order. In reply to the said application, the claims of the respondent are false regarding non-payment of the maintenance amount in full by the petitioner.
15. Additionally, the respondent has concealed the fact that an appeal is pending in the Delhi High Court, being Case No. 431/2017 against the order dated 24.04.2017 in Maintenance Petition No. 624/2014.

Case No. 220/2017, under Section 125(3) of the Cr.P.C.

16. It is stated that in the said case, an application under Section 125(5) of the Cr.P.C. was dismissed by this court based on a false affidavit submitted by the respondent which concealed the fact that an appeal is pending in the



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Delhi High Court, being Case No. 431/2017 against the order dated 24.04.2017 in Maintenance Petition No. 624/2014.

Case No. CC-326/2017, under Section 125 of the Cr.P.C.

17. It is stated that the respondent has not been truthful and has concealed important facts in her affidavit of income submitted to the Court on 24.10.2013. The respondent has concealed:
- A. The income of her father, which is relevant to her financial situation as she stated that her father is bearing the cost of her child's education and her daily expenses.
 - B. The pending case filed by her under Section 200 of the Cr.P.C., being Case No. C.C.No.-413/2016.
 - C. She stated that the petitioner was earning Rs.30,000/- per month. However, the petitioner states that the respondent was aware that he was terminated from his job and did not mention the same.
 - D. She stated a monthly expenditure of Rs.30,000/-, however, her expenditure calculates to Rs.20,300/-. suggesting she is manipulating figures.
 - E. She claimed that all household items and jewellery are with the petitioner in the matrimonial home, despite having received her stridhan and categorically admitting in the court that there is nothing due and payable by the petitioner to her in a previous criminal case.

F.I.R. No. 713/2011 under Sections 498-A, 406 and 34 of the IPC

Case No. 90/2011, under Section 12 of the PWDV Act



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18. The respondent has deposed on 26.09.2011 in the FIR that her father spent Rs.11,00,000/- on the marriage ceremony.
19. On the other hand, the respondent in her evidence filed on 16.03.2015 for the DV Petition has stated that her father spent Rs.8,00,000/- on the marriage ceremony.
20. Thus, the statements of the respondent clearly show two inconsistent figures.
21. Furthermore, the evidence of Mr. Rajender Kumar, who provided photography and videography services for the marriage, indicated that the payment was made by the father of the petitioner.

SUBMISSIONS ON BEHALF OF THE RESPONDENT

22. *Per contra*, learned counsels appearing on behalf of the respondent, oppose the present petition.
23. They state that the allegations of the petitioner are that the statements made in the affidavits and court testimony are false statements which have been made knowingly and willfully by the respondent and hence, the respondent committed an offence under Sections 199, 200 and 209 of the IPC. However, the issue as to whether the respondent made a false statement or not can only be ascertained once the parties have led their evidence and at the time of final adjudication of the proceedings.

ANALYSIS AND FINDINGS

24. I have heard the parties and perused the material on record.
25. Section 195 of the Cr.P.C. provides for the power to take cognizance of the offence of perjury in relation to contempt of lawful authority of public



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servants, for offences against public justice and for offences relating to documents given in evidence. Section 340 of the Cr.P.C. empowers the court to file a complaint for perjury, if it considers such action necessary in the interest of justice.

26. Section 340 of the Cr.P.C. reads 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 interests 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 in 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.



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(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.

(4) *In this section, “Court” has the same meaning as in section 195.”*

27. The relevant extract of Section 195 of the Cr.P.C. reads as under:

“195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.—

(1) No Court shall take cognizance—

(b) (i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been



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committed in, or in relation to, any proceeding in any Court, or

except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.”

28. The scheme of the above statutory provisions may now be examined.
29. The Hon’ble Supreme Court in ***Iqbal Singh Marwah & Anr. v. Meenakshi Marwah & Anr., (2005) 4 SCC 370*** observed the scope of Section 195 and 340 of the Cr.P.C. as under:

“23. In view of the language used in Section 340 Cr.P.C. the Court is not bound to make a complaint regarding commission of an offence referred to in Section 195(1)(b), 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 course will be adopted only if the interest of justice requires and not in every case. Before filing of the complaint, the Court may hold a preliminary enquiry and record a finding to the effect that it is expedient in the interests of justice that enquiry should be made into any of the offences referred to in Section 195(i)(b). This expediency will 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 having regard to the effect or impact, such commission of offence has upon administration of justice. It is possible that such forged document or forgery may cause a very serious or substantial injury to a person in the sense that it may deprive him of a very



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valuable property or status or the like, but such document may be just a piece of evidence produced or given in evidence in Court, where voluminous evidence may have been adduced and the effect of such piece of evidence on the broad concept of administration of justice may be minimal. In such circumstances, the Court may not consider it expedient in the interest of justice to make a complaint. The broad view of clause (b)(ii), as canvassed by learned counsel for the appellants, would render the victim of such forgery or forged document remediless. Any interpretation which leads to a situation where a victim of a crime is rendered remediless, has to be discarded.”

24. There is another consideration which has to be kept in mind. Sub-section (1) of Section 340 Cr.P.C. contemplates holding of a preliminary enquiry. Normally, a direction for filing of a complaint is not made during the pendency of the proceeding before the Court and this is done at the stage when the proceeding is concluded and the final judgment is rendered.”

- 30.** The Hon’ble Supreme Court in ***Amarsang Nathaji v. Hardik Harshadbhai Patel & Ors., (2017) 1 SCC 113***, further held as follows:

“6. The mere fact that a person has made a contradictory statement in a judicial proceeding is not by itself always sufficient to justify a prosecution under Sections 199 and 200 of the Penal Code, 1860 (45 of 1860) (hereinafter referred to as "IPC"); but it must be shown that the defendant has intentionally given a false statement at any stage of the judicial proceedings or fabricated false evidence for the purpose of using the same at any stage of the judicial proceedings. Even after the above position has emerged also, still the court has to



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*form an opinion that it is expedient in the interests of justice to initiate an inquiry into the offences of false evidence and offences against public justice and more specifically referred to in Section 340(1) CrPC, having regard to the overall factual matrix as well as the probable consequences of such a prosecution. (See *K.T.M.S. Mohd. v. Union of India* [*K.T.M.S. Mohd. v. Union of India*, (1992) 3 SCC 178 : 1992 SCC (Cri) 572]). The court must be satisfied that such an inquiry is required in the interests of justice and appropriate in the facts of the case.*

*7. In the process of formation of opinion by the court that it is expedient in the interests of justice that an inquiry should be made into, the requirement should only be to have a prima facie satisfaction of the offence which appears to have been committed. It is open to the court to hold a preliminary inquiry though it is not mandatory. In case, the court is otherwise in a position to form such an opinion, that it appears to the court that an offence as referred to under Section 340 CrPC has been committed, the court may dispense with the preliminary inquiry. Even after forming an opinion as to the offence which appears to have been committed also, it is not mandatory that a complaint should be filed as a matter of course. (See *Pritish v. State of Maharashtra* [*Pritish v. State of Maharashtra*, (2002) 1 SCC 253 : 2002 SCC (Cri) 140] .)”*

- 31.** In the recent judgment of *Narender Kumar Srivastava v. State of Bihar & Ors.*, (2019) 3 SCC 318, the Hon’ble Supreme Court has held as under:

*“18. This Court in *Chajoo Ram v. Radhey Shyam* [*Chajoo Ram v. Radhey Shyam*, (1971) 1 SCC 774 : 1971 SCC (Cri) 331] , held that the prosecution under Section 195 CrPC could be initiated only by the sanction of the court and only if the same*



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appears to be deliberate and conscious. It emphatically held as under: (SCC p. 779, para 7)

“7. The prosecution for perjury should be sanctioned by courts only in those cases where the perjury appears to be deliberate and conscious and the conviction is reasonably probable or likely. 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.”

- 32.** Based on the principles established by the Hon’ble Supreme Court in various decisions, some of which are referenced above, the following conclusions can be drawn:
- A.** Before lodging a complaint under Section 195 of the Cr.P.C., the court must determine whether a party has intentionally provided a false statement or fabricated evidence during judicial proceedings, which has impacted the administration of justice.
 - B.** The decision to initiate an inquiry into false evidence is the judicial



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discretion of the court, which must consider whether it is expedient and in the interests of justice. A preliminary inquiry is not always necessary and the court can proceed without it if sufficient information is available to form an opinion.

- C.** Even if a prima facie case of an offence is established, the court must assess whether filing a complaint is expedient in the interest of justice. This assessment focuses on the impact of the alleged offence on the administration of justice rather than the extent of injury suffered by the affected party.
- D.** Generally, directions for filing a complaint are issued after the conclusion of proceedings and the rendering of a final judgment.
- 33.** In the instant case, the petitioner has filed the present petition requesting this Court to draw up a proceeding under Section 340 of the Cr.P.C. on the basis of concealment of material facts and filing of false and contradictory statements by the respondent in different legal proceedings pending in different courts.
- 34.** A perusal of Section 340 of the Cr.P.C. reproduced above shows that a Court is empowered to initiate an inquiry into specific offences mentioned in Section 195(1)(b), which appears to have been committed in or in relation to a proceeding in '*that Court*' itself or concerning documents or evidence presented in a proceeding in '*that Court*' itself. Further, it empowers this Court to initiate such an inquiry, in case no action is taken by '*that Court*', the subordinate court. Further, it is settled that the court is not bound to make a complaint regarding commission of offence and the said course will be adopted only if the court is of the opinion that it is expedient in the



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interests of justice to do so and not in every case.

35. Hence, I am of the view that the petitioner has already made the applications and the same are pending adjudication before the respective Courts. The applications of the petitioner are yet to be decided through pleadings and evidence of the parties.
36. I am also of the opinion that the perjury proceedings are serious in nature and entail a punishment of imprisonment as well as fine and cannot be initiated in a casual and routine manner.
37. The claims of the petitioner are primarily based on inconsistencies in the affidavits and the court testimonies of the respondent, as interpreted by the petitioner, rather than clear and cogent evidence of deceit and malafide against the respondent.
38. A perusal of *Iqbal Singh Marwah (supra)* shows that directions for filing a complaint are generally issued after the conclusion of proceedings and the rendering of a final judgment. In the present case, the respondent is yet to be confronted with her affidavits to elucidate her response in this regard. Thus, entertaining the present petition at this stage would tantamount to basing conclusions upon surmises and conjectures rather than there being any clear, categorical and clinching reliable material on record.

CONCLUSION

39. In light of the above findings, I am of the view that the allegations made by the petitioner in the present petition lack sufficient merit. The petitioner has not been able to show that the respondent has acted with malafides and the fact that she made any false statement or false claim in the respective courts



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that would warrant the prosecution under Sections 199, 200 and 209 of the IPC.

40. For the said reasons, the trial court is directed to take expeditious steps to dispose of the legal proceedings pending between the petitioner and the respondent.
41. The petition is disposed of granting liberty to the petitioner to proceed in accordance with law.
42. Nothing stated hereinabove shall tantamount to any expression on the merits or demerits of the case.

JASMEET SINGH, J

MAY 13, 2025 / shanvi

Click here to check corrigendum, if any