

Before Jasjit Singh Bedi, J.

SMT. RITU @ RIDHIMA AND ANOTHER—*Petitioners*

versus

SANDEEP SINGH SANGWAN—*Respondents*

CRR No.457 of 2022

March 15, 2022

Code of Criminal Procedure, 1973—Ss.125 and 340—Indian Penal Code, 1860— Ss.191 and 193—Petitioner/wife challenged an order passed by the Family Court directing an inquiry against her for offences under Sections 191 and 193 IPC and complaint to CJM— She concealed her employment in application for maintenance— Maintenance sought by person unable to maintain herself— Foremost duty to disclose financial status—Though she was employed after filing of petition, could have informed Court during course of proceedings—Proceedings under Section 340 Cr.P.C.— Matter of administration of justice— Petition dismissed.

Held that, at the very outset it may be stated that the proceedings under section 340 Cr.P.C. are undoubtedly initiated at the instance of one party but it is a matter of administration of justice and, therefore, ultimately it is between the parties and the court. Though, quite rightly, the effect of such proceedings may actually befall on either of the parties.

(Para 8)

Further held that, a petition under Section 125 Cr.P.C. is filed by a person who is unable to maintain herself or her children on account of lack of sufficient means. Thus it becomes the foremost duty of the party claiming maintenance to disclose to the Court her actual financial status so as to enable the Court to come to a conclusion as to the quantum of maintenance to be paid, if any.

(Para 9)

Further held that, admittedly, the petitioner joined as an Assistant Professor in Chitkara University, Rajpura on a monthly salary of Rs. 28,000/- on 3.7.2017. Her petition under Section 125 Cr.P.C. was filed on 26.07.2017. During the entire litigation including when her application for interim maintenance was decided she did not disclose information about her job and her earnings and in fact deliberately and

intentionally to grab maintenance, submitted wrong information to the Court that she was unemployed.

The only explanation offered by the petitioner is that she had given the documents to her counsel in the month of May 2017 to file the petition under Section 125 Cr.P.C. which was filed on 26.07.2017 because of which her joining on 03.07.2017 is not disclosed.

(Para 10)

Further held that, in my opinion, this explanation is completely fallacious. The petitioner is an Assistant Professor and a highly educated person. At no stage of proceedings uptill her cross examination did she disclose that she was employed including when her application for interim maintenance was decided and Rs. 5000/- was awarded to her. Assuming that the said fact was missing in her petition under Section 125 Cr.P.C., the Court could have been informed during the course of proceedings that there had been change of circumstances regarding her obtaining employment. However, as has already been mentioned above, no such information was furnished and only the cross examination revealed her job and consequent salary. Thus it can safely be said that the possibility of her conviction was high and her actions were certainly deliberate and conscious to obtain maintenance.

(Para 11)

Irvanneet Kaur, Advocate
for Anil Mehta, Advocate
for the petitioners.

JASJIT SINGH BEDI, J.

(1) The present revision petition has been filed against the order dated 13.10.2021 wherein the Court of Additional Principal Judge (Family Court), Ambala has ordered that it would be expedient in the interest of justice that an inquiry should be made against the petitioner (respondent no.1 before the Family Court) into an offence under Section 191 IPC punishable under Section 193 and a separate complaint in this regard has been ordered to be sent by the court to the court of learned CJM, Ambala.

(2) The brief facts of the case are that petitioner no.1-wife and respondent were married on 24.03.2010 at Ambala city and a female child was born from the wedlock. In June 2017, the petitioner moved a complaint against the respondent and his family members under Sections 498, 406, 506 and 312 IPC. The petitioner also filed an

application under Section 125 Cr.PC on 26.07.2017 and an application for interim maintenance and in both she stated that she has no source of income or property and was unable to support herself. During her deposition she maintained the same stand of having no income but she was confronted with the record relating to her job and she admitted that she was working as an Assistant Professor in Chitkara University, Rajpura on a monthly salary of Rs.28,000/- per month. The petitioner joined on 3.7.2017 whereas she had moved an application under Section 125 Cr.PC on 26.07.2017 where she had stated that she does not have any source of income or property to support herself or her daughter. Thus, it was contended by the respondent-husband that she had deliberately and intentionally given wrong information to the court in order to grab the maintenance and harass him. He further contended that she was well educated being/employed as an Assistant Professor with a salary of Rs.28,000/- per month which was sufficient to maintain herself and their child. He stated that it was the foremost duty of the parties to tell the truth so that the Court can reach a conclusion as to whether the amount claimed as maintenance by the wife was to be paid or not. The fact that she had not disclosed information that she was earning Rs.28,000/- per month and also had NSC of Rs.30,000/- and Rs.1 Lakh in her PF Account, inquiry ought to be made and proceedings initiated against her under Section 340 Cr.PC. He had further stated that his wife had received an interim maintenance from him to the tune of Rs.10,000/- on 06.05.2019 knowing fully well she was not entitled to maintenance as she had obtained that order by making false statement. He thus claimed that an FIR should be registered under Section 191 to 195 IPC against her.

(3) The respondent proved documents Ex.A-1 to A-14 to support his contention. He was examined as AW-1 where he narrated the fact leading up to the filing of the petition under Section 125 Cr.PC as also the details of the finances of the petitioner-wife which had not been disclosed to the court.

(4) The Court examined all the material on record and found that the wife was appointed as an Assistant Professor in Chitkara University w.e.f. 3.7.2017 but did not disclose this fact in her petition under Section 125 Cr.PC on 08.07.2017 and even subsequently and it was only when she was confronted with regard to her service in her cross examination that she had admitted this fact. The wife was legally bound to tell the truth but she made a false statement in her testimony Ex.A-2 that she was not holding any job which she knew to be false. Therefore, she had given false evidence in the proceedings under

Section 125 Cr.PC. Thus the Court came to the conclusion that it was expedient in the interest of justice that an inquiry should be made under Section 191 IPC.

(5) With regard to the allegations of non disclosure of National Saving Certificates, FDRs etc, the court found that she had duly explained the said money available with her and thus no action needed to be taken qua the FDRs and National Saving Certificates. No offence under Section 192, 194 and 195 IPC was made out. Since there were no allegations against the minor daughter, the application qua her was also dismissed. However, the court found while partially allowing the application of the husband that it was expedient in the interest of justice that an inquiry should be made against the wife for having committed an offence under Sections 191 IPC punishable under Section 193 IPC. It is this finding which has been assailed by the petitioner-wife.

(6) The counsel for the petitioner has argued that though the petitioner was employed with effect from 3.7.2017, the documents in the application under Section 125 Cr.PC were provided to her counsel prior to that date and, therefore, when the application under Section 125 Cr.PC was filed on 26.7.2017 the said application did not disclose the factum of the petitioner having joined the job on 3.7.2017. She, therefore, stated that she did not act deliberately or with an intention to commit perjury. The Counsel for the petitioner has referred to a number of judgments, wherein the Court has held that it is not every case where it would be expedient to conduct proceedings under Section 340 Cr.PC and it is only in those cases where it is in the interest of justice to do so that such an inquiry can be ordered. She further states that it is only in glaring cases of falsehood where the possibility of conviction is highly likely that the Court should direct an inquiry and in matrimonial cases between husband and wife such a practice of ordering an inquiry should be discouraged.

(7) I have heard learned counsel for the petitioner-wife at length.

(8) At the very outset it may be stated that the proceedings under section 340 Cr.PC are undoubtedly initiated at the instance of one party but it is a matter of administration of justice and, therefore, ultimately it is between the parties and the court. Though, quite rightly, the effect of such proceedings may actually befall on either of the parties.

(9) A petition under Section 125 Cr.PC is filed by a person who is unable to maintain herself or her children on account of lack of sufficient means. Thus it becomes the foremost duty of the party

claiming maintenance to disclose to the Court her actual financial status so as to enable the Court to come to a conclusion as to the quantum of maintenance to be paid, if any.

(10) Admittedly, the petitioner joined as an Assistant Professor in Chitkara University, Rajpura on a monthly salary of Rs.28,000/- on 3.7.2017. Her petition under Section 125 Cr.PC was filed on 26.07.2017. During the entire litigation including when her application for interim maintenance was decided she did not disclose information about her job and her earnings and in fact deliberately and intentionally to grab maintenance, submitted wrong information to the Court that she was unemployed. The only explanation offered by the petitioner is that she had given the documents to her counsel in the month of May 2017 to file the petition under Section 125 Cr.PC which was filed on 26.07.2017 because of which her joining on 3.7.2017 is not disclosed.

(11) In my opinion, this explanation is completely falacious. The petitioner is an Assistant Professor and a highly educated person. At no stage of proceedings uptill her cross examination did she disclose that she was employed including when her application for interim maintenance was decided and Rs.5000/- was awarded to her. Assuming that the said fact was missing in her petition under Section 125 Cr.PC, the Court could have been informed during the course of proceedings that there had been change of circumstances regarding her obtaining employment. However, as has already been mentioned above, no such information was furnished and only the cross examination revealed her job and consequent salary. Thus it can safely be said that the possibility of her conviction was high and her actions were certainly deliberate and conscious to obtain maintenance.

(12) As has already been mentioned above, the various judgments referred to by the counsel are on the facts of those cases and as such do not amount to a binding precedent. The practice of making false assertions in court ought to be discouraged because the dignity and sanctity of the court is undermined by such conduct of a party to a lis.

(13) Thus keeping in view the aforementioned facts and circumstances, I find no merit in the petition and the same is hereby dismissed.

(14) I may also record my appreciation for the arguing counsel who has argued with great vehemence and eloquence.

Shubreet Kaur