

Court No. - 83

Case :- CRIMINAL MISC. APPLICATION U/S 379 BNSS No. - 7 of 2025

Applicant :- Ankita Priyadarshini

Opposite Party :- Arpan Saxena

Counsel for Applicant :- In Person

Counsel for Opposite Party :- Chhaya Gupta, Sujeet Kumar

Hon'ble Shekhar Kumar Yadav, J.

1. Pursuant to this Court's order dated 12.08.2025, the husband of the applicant appeared and stated that he does not wish to settle the dispute with his wife.

2. The court has taken on record the rejoinder affidavit to the short counter affidavit filed by the respondent's counsel.

3. The present application has been filed by the wife (the applicant) under Section 340 of the Code of Criminal Procedure, 1973 (Cr.P.C.), seeking the following reliefs:

a) Direct the initiation of criminal proceedings by filing a complaint against the respondent, Arpan Saxena, under Section 340 Cr.P.C. read with Section 195 Cr.P.C. for offenses affecting the administration of justice.

b) Initiate an inquiry under Section 340 Cr.P.C. against the respondent for alleged offenses under Sections 419, 420, 467, 468, and 471 of the Indian Penal Code (IPC).

c) In the event the respondent attempts to deflect blame, direct a judicial inquiry into the disappearance of the original counter affidavit, the unauthorized insertion of documents, and the illegal inclusion of a final report in the judicial file of ABAIL No. 9565 of 2020.

d) Pass an order to restrain the respondent, Arpan Saxena, from leaving the country during the pendency of the matter.

4. The applicant has pleaded that the respondent/husband committed offenses affecting the administration of justice, including forgery, fabrication of judicial records, and impersonation. She alleges that the respondent tampered with the judicial record by causing a counter affidavit to go missing, adding unauthorized pages to the counter affidavit to a recall application, and allowing another person to sign multiple applications and affidavits. The applicant also claims that the respondent

deliberately made false statements in affidavits and misrepresented facts to the court to secure his passport's release.

5. The applicant has provided photocopies showing significant discrepancies between the respondent's signature and the signatures on the anticipatory bail application, rejoinder affidavits, and the Vakalatnama. She further alleges that the respondent made false submissions regarding his passport status, misleading the court to believe he had surrendered it when he had not.

6. It is also alleged that the respondent submitted a misleading and incomplete counter affidavit (21 pages instead of the original 43) which included an illegally obtained Final Report from the District Court in Udaipur. This document was not served to the complainant, prejudicing her and depriving her of the opportunity to respond.

7. The applicant also alleges that the counter affidavit dated 23.03.2025 is not traceable in the official filing records, indicating intentional suppression or manipulation. She claims that unauthorized pages were inserted into her own recall application, and that the first two pages of the counter affidavit were deliberately titled "Short Counter" to evade scrutiny.

8. It is not in dispute that the respondent was granted **anticipatory bail on 17.02.2021** in Case Crime No. 194 of 2020, subject to certain conditions, including **Condition No. 3, which required him to surrender his passport.**

9. In 2024, the respondent filed **Modification Application No. 2 of 2024**, seeking the deletion of Condition No. 3 on the grounds that his passport had expired and that he needed to travel abroad for work. On 07.03.2025, this Court allowed the modification, deleted Condition No. 3, and directed the return of the passport for renewal.

10. Subsequently, the applicant-wife filed **Recall Application No. 5 of 2025**, alleging that the order dated 07.03.2025 was passed without her being heard, that the respondent had failed to comply with the passport surrender condition, and that he intended to abscond. This application was **dismissed on 26.03.2025**, with the Court relying on a counter affidavit stated to be filed by the respondent. For the sake of clarity, the order dated 26.03.2025 passed in ABAIL No. 9565 of 2020 is reproduced below:

"Order dated 26.03.2025 in Criminal Misc. Recall Application No. 5 of 2025

1. Heard Ms. Ankita Priyadarshini, recall applicant-opposite party no.2, in person; Sri Ramesh Upadhyaya, learned Senior Counsel assisted by Sri Rajan Upadhyaya, learned counsel for the applicant; learned AGA for opposite party no.1 and perused the material on record.

2. The above noted application has been filed by opposite party no.2 - recall applicant, praying that order dated 7.3.2025 of modification of condition no.3 of the order dated 17.2.2021 passed by this Court in Criminal Misc. Anticipatory Bail Application No.9565 of 2020 directing release of the applicant's passport passed without hearing recall applicant-opposite party no.2, may be recalled. The passport of the applicant may not be released and the condition no.3 in the anticipatory bail order dated 17.2.2021 of applicant passed by this Court may be restored.

3. The recall applicant-opposite party no.2, appearing in person, has submitted that the applicant, Arpan Saxena, is her husband. The order dated 7.3.2025 passed by this Court was passed without giving opportunity of hearing to her. The applicant did not complied the condition of surrender of passport as per orders of this Court dated 18.12.2020 and 17.2.2021 for long time. The applicant wants to flee away from the country by selling her matrimonial home and her jewelries. He wants to settle abroad alongwith his parents. She has further submitted that in case the applicant is allowed to leave the country, divorce proceedings pending between them before the court at Delhi shall be prejudiced. She has also alleged that number of criminal cases are pending against the applicant. Therefore he does not deserves to be returned his passport. Hence it has been prayed that order dated 7.3.2025 passed by this Court should be recalled.

4. A counter affidavit has been filed by the applicant stating that this Court has passed the order dated 7.3.2025 relying upon the judgement passed in the case of Mirza Shafiq Hussain Shafaq and others Vs. State of U.P. (MANU/UP/1696/2022) and order passed by Division Bench in Contempt Application filed by opposite party no.2. It has further been stated in the counter affidavit that applicant appeared before the police station on 02.01.2021 for surrendering his passport, but it was not accepted on the ground that passport had already expired. The applicant has been granted permission by Metropolitan Magistrate-1, Dwarka Court, New Delhi on 21.4.2023 granting no objection to his traveling abroad if the passport of the applicant is renewed. The aforesaid order was challenged by opposite party no.2 by filing her revision before the Sessions Court, Dwarka, Delhi, but it was dismissed on 22.4.2024. He has submitted that the order of the contempt court dated 18.3.2024 was not challenged by the opposite party no.2 before any forum. The applicant has not violated any order of this Court as alleged falsely by the opposite party no.2.

5. After hearing rival submissions, a look at the order dated 7.3.2025 passed by this Court is required and it is quoted hereinbelow:-

"List has been revised.

Heard Sri Ramesh Upadhyay, learned Senior Counsel assisted by Sri Rajan Upadhyay, learned counsel for applicant and learned AGA for State.

Order on Delay Condonation Application No.3/2021

Cause shown for delay in filing of application is sufficient. Delay in filing of appeal is condoned. Delay condonation application is allowed.

Order on Modification Application No.2/2024

The above noted application has been filed praying for modification of the order dated 17.02.2021 passed by this Court on anticipatory bail application of the applicant by deleting the condition no.3 in the aforesaid order.

Learned Senior Counsel for the applicant submits that the applicant has deposited the passport in compliance of the earlier order passed by this Court, but it has already expired and being reputed employee of Maruti Suzuki the applicant is required to travel abroad and, therefore,

his passport may be returned for renewal.

The Division Bench of this Court in Contempt Application(Criminal) No.-2 of 2024, has granted liberty to the applicant to travel abroad on furnishing a F.D.R. of Rs. 10,00,000/- as security and imposing other conditions as per paragraph no.7 of the aforesaid order which is quoted hereinbelow:-

"To safeguard the interest of petitioner, it is expected that; (a) in case, any permission is granted to the respondent to travel abroad, stringent conditions will be laid in terms of well settled law that the respondent will be directed to deposit a minimum of Rs.10,00,000/- in FDR as security that he will be return back within time granted by Trial Court; (b) Before traveling abroad, the respondent will submit his itinerary along with his mobile phone and e-mail which he will use while residing abroad; (c) The respondent will also submit an undertaking before the Trial Court at Delhi that in case he fails to return within the time granted by the said Court, the aforesaid amount of Rs.10,00,000/- will be forfeited and will be paid to the applicant/ petitioner and (d) In case the respondent return back within time granted by Court, the said amount will be returned back to him. "

Learned counsel for the applicant has relied upon the judgment of this Court passed in the case of Mirza Shafiq Hussain Shafaq and Ors. Vs. State of U.P. and Ors. MANU/UP/1696/2022, and has submitted that the right to travel abroad encompasses to right to personal liberty.

Learned AGA has opposed the submissions and submitted that the applicant may misuse the facility provided by this Court for traveling abroad.

After hearing the rival contentions, this Court finds from the ratio of the judgment of this Court and the judgment of the Division Bench quoted hereinabove, that the condition no.3 imposed in the order dated 17.02.2021 passed by this Court deserves to be deleted and order modified accordingly. The rest of the order dated 17.02.2021 shall remain intact.

The passport of the applicant shall be returned to the applicant within period of three days from the date of production of certified copy of this order.

The modification application is allowed."

6. A perusal of the aforesaid order shows that the modification application alongwith delay condonation application was listed before this Court in the cause list. At the time of grant of anticipatory bail to the applicant, opposite party no.2 was represented by counsel. Even in the revised cause list, no one turned up to oppose this modification application.

7. Opposite party no.2 appearing in person has stated that the learned counsel, who represented her, when the anticipatory bail was granted to the applicant on 17.2.2021, had no instructions on her behalf to appear in this case, when modification application was heard and decided. He was engaged only to argue Anticipatory Bail Application No.9565 of 2020.

8. This Court finds that when the case was taken up, earlier counsel appearing for the opposite party no. 2, Sri Aishwaraya Pratap Singh, did not appeared and informed the Court that instructions have been withdrawn from him by opposite party no.2 and notices may be issued to opposite party no.2 to answer the modification application. Therefore, this Court proceeded with hearing of modification application and passed the order dated 7.3.2025 giving reasons for the same. There is nothing in the recall application, except the allegations that applicant did not deposited his passport within the time provided by this Court, which may persuade this Court to recall the order dated 7.3.2025.

9. Apex Court had held that right to travel according to law is in accordance with Article 21 of the Constitution of India.

10. Apex Court in the case of Satwant Singh Sawhney Vs. D. Ramarathnam, Asstt. Passport Officer (1967) 3 SCR 525 in para 31, held as under:

"31. For the reasons mentioned above, we would accept the view of Kerala, Bombay and Mysore High Courts in preference to that expressed by the Delhi High Court. It follows that under Article 21 of the Constitution no person can be deprived of his right to travel except according to procedure established by law. It is not disputed that no law was made by the State regulating or depriving persons of such a right."

11. Similar view was reiterated in the decision rendered by 7-Judge Bench of Apex Court in *Maneka Gandhi Vs. Union of India* and another (1978) 1 SCC 248 wherein at page 280, it was held as under:

".....Now, it has been held by this Court in *Satwant Singh's case* (supra) that 'personal liberty' within the meaning of Article 21 includes within its ambit the right to go abroad and consequently no person can be deprived of this right except according to procedure prescribed by law. Prior to the enactment of the Passports Act, 1967, there was no law regulating the right of a person to go abroad and that was the reason why the order of the Passport Officer refusing to issue passport to the petitioner in *Satwant Singh's case* (supra) was struck down as invalid. It will be seen at once from the language of Article 21 that the protection it secures is a limited one. It safeguards the right to go abroad against executive interference which is not supported by law; and law here means 'enacted law' or 'State law' (Vide *A.K. Gopalan's case*). Thus, no person can be deprived of his right to go abroad unless there is a law made by the State prescribing the procedure for so depriving him and the deprivation is effected strictly in accordance with such procedure.."

12. Recall applicant-opposite party no.2 has not pointed out any law which may prohibit travel of applicant abroad.

13. In view of the above consideration, no ground has been made for recall of the order dated 7.3.2025. The recall application is misconceived and is hereby rejected."

11. Thereafter, the applicant filed Recall Application No. 7 of 2025, reiterating her allegations and further asserting that the counter affidavit relied upon in the order dated 26.03.2025 was not sworn and that the judicial record had been tampered with. Upon examination, this Court vide order dated 28.04.2025 found that the counter affidavit was indeed unsworn, bore the Court's markings, and was the very document relied upon to pass the order dated 26.03.2025.

12. By an order dated 28.04.2025 passed in ABAIL No. 9565 of 2020, this Court examined the record and noted:

"When the order dated 26.3.2025 was passed by this Court, a counter affidavit was filed on behalf of the applicant to the recall application but later it has been found that it was not sworn before the Oath Commissioner... The same is on record. It contains marking at places made by the Court... the submission... that he filed duly sworn copy... is not correct... Filing of the unsworn counter affidavit on behalf of the applicant is also a ground for recall of the orders of this Court dated 7.3.2025 and 26.3.2025."

13. The order dated 28.04.2025 further recorded:

"Filing of the unsworn counter affidavit on behalf of the applicant is also a ground for recall of the orders of this Court dated 7.3.2025 and 26.3.2025. The orders aforesaid are hereby recalled. The applicant is directed to deposit his passport before the trial court within a period of one week and not to leave the country without order from this Court."

14. Consequently, treating the filing and reliance upon an unsworn

affidavit as a serious procedural irregularity and abuse of the process of the Court, and noting the allegations of tampering with judicial records, this Court, by the order dated 28.04.2025, recalled its earlier orders dated 07.03.2025 and 26.03.2025, directed the respondent to deposit his passport, and restrained him from leaving India without the Court's permission.

15. The present application under Section 340 of Cr.P.C., 1973 contains the following principal allegations:

(i) Misrepresentation regarding passport status: making false statements about the surrender and expiry of the passport to secure the deletion of a bail condition.

(ii) Fabrication of judicial records: replacement of affidavits and insertion of unauthorized pages into Court files.

(iii) Impersonation: filing of applications allegedly signed by someone other than the respondent.

(iv) Suppression of documents: non-placement on record and non-service of certain affidavits and judicial orders from proceedings before courts in other State.

16. Learned counsel for the applicant has relied on several judicial precedents, including: **Iqbal Singh Marwah & Anr. v. Meenakshi Marwah & Anr., (2005) 4 SCC 370**, which held that a court may proceed under Section 340 Cr.P.C. to lodge a complaint for offenses affecting the administration of justice when it is expedient to do so. **M.S. Sheriff v. State of Madras, AIR 1954 SC 397**, which emphasizes the duty of courts to ensure litigants do not abuse the judicial process with fraudulent or forged documents. **Chajoo Ram v. Radhey Shyam, AIR 1971 SC 1367**, which states that perjury and deliberate falsehood in court proceedings must be dealt with sternly to preserve the sanctity of the judicial process.

17. Upon due consideration of the record and submissions, this Court is of the prima facie view that the allegations, if proven, constitute a deliberate and concerted attempt to mislead the Court, obstruct the course of justice, and impair the integrity of judicial proceedings. These actions squarely fall under the jurisdiction of Section 340 Cr.P.C., which empowers the Court to direct an inquiry and, if expedient, to lodge a formal complaint before the competent Court.

18. Accordingly, it is directed that the Registrar General of this Court shall immediately conduct a preliminary judicial inquiry under Section 340 Cr.P.C. into the allegations of forgery, impersonation, suppression of material facts, and fabrication of judicial records made against Arpan Saxena in relation to Criminal Misc. Anticipatory Bail Application No. 9565 of 2020. The inquiry shall be concluded within a period of **one month** from today and shall determine whether a prima facie case exists for lodging a formal complaint. The respondent, Shri Arpan Saxena, is restrained from leaving India until further orders.

19. The Registrar General shall ensure the immediate preservation of all original files and documents in judicial custody related to Criminal Misc. Anticipatory Bail Application No. 9565 of 2020 and the present proceedings to avoid any further tampering, replacement, or alteration of the judicial records.

20. The matter shall be listed again on 23.09.2025 for further order, after reviewing the findings of the preliminary inquiry, before appropriate court.

Order Date :- 14.8.2025
RavindraKSingh