

(1987) 11 P&H CK 0015

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. 2960-M of 1986 & Criminal Miscellaneous No. 3455
of 1987

Madanjit Singh

APPELLANT

Vs

Shrimati Nasib Kaur

RESPONDENT

Date of Decision: Nov. 16, 1987

Citation: (1988) 1 RCR(Criminal) 240

Hon'ble Judges: S.S.Sodhi, J

Advocate: K.S. Sidhu, G.S. Manauli, Advocates for appearing Parties

Judgement

S.S. Sodhi, J. (Oral)

1. No occasion is provided here for taking any action against the respondent under Section 340 of the Code of Criminal Procedure.

2. The facts relevant to this matter are that the respondent Nasib Kaur was an accused in criminal case pending before the Judicial Magistrate at Sangrur. March 3, 1987 was the date in that case and this was also the date in the Court in probate proceedings. On February 6, 1986, an application was filed on behalf of Nasib Kaur by her counsel before the Judicial Magistrate at Sangrur seeking personal exemption. When this application was filed, Nasib Kaur was no present. The Magistrate passed an order thereon that this application be put up on the date fixed. It transpires, however, that the application was in fact taken up earlier on February 12, 1986 and the Magistrate passed an order granting exemption to Nasib Kaur for her appearance before him on March 3, 1986. It is pertinent to note here that on this date too, Nasib Kaur was not present and this order was passed only in the presence of her counsel.

3. The scene then shifts to this Court where on February 18, 1986, Nasib Kaur filed an application seeking adjournment of the case fixed in this Court on March 3, 1986 on the ground that she had to appear before the Magistrate at Sangrur on that date. This application was supported by an affidavit with averments to the same

effect. This application was, however, declined on February 25, 1986.

4. Counsel for the petitioner now seeks the prosecution of Nasib Kaur for having made a false statement on oath in this Court that having obtained personal exemption from the Court at Sangrur on February 12, 1986, she swore an affidavit in this Court on February 18, 1986 that she had to appear there on that date. In order to establish however, that Nasib Kaur had, in fact, knowingly made such a false statement, it was clearly incumbent upon the counsel for the petitioner to place on record material to show personal knowledge of Nasib Kaur of the order passed by the Judicial Magistrate on February 12, 1986 exempting her from personal appearance before him on March 3, 1986. No such material is forthcoming. This being the situation here, there is clearly no warrant for initiating any proceedings against Nasib Kaur under Section 340 of the Code of Criminal Procedure. This petition is accordingly hereby dismissed.