

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.21361 of 2015  
and  
Criminal Appeal No.S-3000-SB of 2015

.....

Date of decision:20.8.2015

M/s Punjab Beverages Pvt. Ltd.

...Appellant

v.

Smt. Shah-e-Naaz

...Respondent

....

**Coram: Hon'ble Mr. Justice Inderjit Singh**

.....

Present: Mr. D.S. Narula, Senior Advocate with Mr. Manmeet Arora,  
Mr. Aashish Chopra, Ms. Rupa Pathania and Ms. Divya  
Khanna, Advocates for the appellant.

.....

**Inderjit Singh, J.**

**Cr. Misc. No.21361 of 2015:**

The criminal miscellaneous application has been filed seeking  
condonation of 138 days delay in filing the appeal.

For the reasons mentioned in the criminal miscellaneous  
application, the delay of 138 days in filing the appeal is condoned.

The criminal miscellaneous application stands disposed of.

**Cr. A. No.S-3000-SB of 2015:**

This appeal has been filed by M/s Punjab Beverages Pvt. Ltd.  
against Smt. Shah-e-Naaz daughter of Lt. Col. A.S. Judge challenging the  
impugned judgment dated 13.11.2014 passed by learned Additional

Sessions Judge, Chandigarh.

I have heard learned senior counsel assisted by Mr. Aashish Chopra, Advocate for the appellant and have gone through the record.

The brief facts of the case are that present appellant/complainant preferred an application under Section 340 Cr.P.C. seeking appropriate action against the respondent for committing perjury by making false averments on oath in the application supported by affidavit dated 7.2.2011. She has stated in the application in para 2 that she was not partner of the firm, namely, G.T. Agencies, which is a false averment as she has been shown to be duly recorded as a partner in G.T. Agencies by the firm itself in suit No.43 of 2005. It is also stated that the Hon'ble Punjab and Haryana High Court vide judgment dated 30.5.2008 passed in Civil Revision No.5251 of 2007 also observed that partnership consist of Lt. Col. A.S. Judge, Smt. Surinder Ajit Judge, Smt. Nagina, Smt. Shah-e-Naaz and Kuljeet Singh Sehgal. Apparently the application, wherein illegal, misconceived and erroneous prayer has been made for impleading Smt. Shah-e-Naaz as respondent being legal heir of Smt. Surinder Ajit Judge, has been filed by making false averment with a mala fide and motivated intention.

The reply was filed taking preliminary objection that it does not disclose any cause of action because the alleged affidavit, which was filed along with the application was moved to implead the legal representatives. The respondent was to be impleaded as party because she is the legal heir of Late Ms. Surinder Singh. Copy of Form-A clearly finds mention that Smt.

Shah-e-Naaz at serial No.4, ceased to be the partner of the firm after 31.3.2005. It is also stated that there is only a bona fide mistake in Form-A, which was attached at the time of recording evidence, but true facts are that Smt. Shah-e-Naaz ceased to be partner of the firm G.T. Agencies on 31.3.2005 and Kuljeet Singh Sehgal was introduced as partner w.e.f. 1.4.2005. It is also stated in the reply that under the provisions of Section 340 Cr.P.C. conditions are to be fulfilled for filing the complaint i.e. one is that it is expedient and in the interest of justice to make such inquiries. Both the conditions are not fulfilled in the present complaint.

The learned Additional Sessions Judge after framing issues and after taking the evidence and after discussing the law in detail vide order dated 13.11.2014 dismissed the application considering that it is not expedient in the interest of justice to direct the appellant's prosecution.

A perusal of the record shows that during the proceedings an application dated 7.2.2011 under Section 151 C.P.C. was filed by the present respondent for impleading LRs of deceased Smt. Surinder Ajit Singh. It is stated in the application that Smt. Surinder Ajit Singh was the partner of G.T. Agency. She has expired on 23.11.2010 at Chandigarh leaving behind the following legal heirs:

- (a) Ms. Nagina Judge
- (b) Smt. Shah-e-Naaz, House No.84, Sector 9-A, Chandigarh.
- (c) Col. Ajeet Singh Judge, House No.84, Sector 9-A, Chandigarh.

Ajeet Singh Judge is already partner of the firm, but the applicant was

not the partner of the firm. The present appellant is aggrieved from this version by stating that applicant Smt. Shah-e-Naaz was partner and she intentionally made false averment in this application. There is no dispute that Smt. Surinder Ajit Singh, who was a partner has expired. No dispute has been raised that the LRs given in the application are not the LRs of Smt. Surinder Ajit Singh. Only dispute is that in the application her status was not given of a partner of the firm whereas she is a partner of the firm. A perusal of the record shows that this application is only for the purpose of impleading the LRs of deceased Smt. Surinder Ajit Singh. It is also admitted at the time of arguments that this application even has not been allowed by the Court and these LRs have not been impleaded. It is also argued by the learned senior counsel for the appellant that no partner by name has been sued in the proceedings and only the case was against the firm.

Keeping in view these facts and circumstances, I find that it is not expedient to file complaint under Section 340 Cr.P.C. It is settled law that regarding each and every wrong facts given during the proceedings, the Court need not to file the complaint under Section 340 Cr.P.C. The Court is to see in the facts and circumstances of the case where it is expedient to file the complaint. In the facts and circumstances, I agree with the findings given by the learned Additional Sessions Judge, Chandigarh in the order dated 13.11.2014 that there is no need to file the complaint under Section 340 Cr.P.C. and the application has been rightly dismissed by the lower Court.

Therefore, finding no merit in this appeal, the same is dismissed.

August 20, 2015.

**(Inderjit Singh)**  
**Judge**

\*hsp\*