

**407 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM M-3425 of 2010.
Decided on : 2.11.2015.**

Col. D.S. Sandhu

...Petitioner

Versus

Chiranjeev Singh

...Respondent

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. H.S. Oberoi, Advocate for
Mr. Puneet Bali, Sr. Advocate,
for the petitioner.

Mr. Anshul Jain, Advocate for
Mr. Amar Vivek, Sr. Advocate,
for the respondent.

JITENDRA CHAUHAN, J.

By filing this petition, under Section 340 of Code of Criminal Procedure, Colonal D.S. Sandhu seeks initiation of action against the respondent Chiranjeev Singh for misleading this Court by filing a false affidavit and making wrong averments in Civil Misc. No. 13705-C of 2009 in ESA No. 16 of 2008.

On behalf of the petitioner it is contended that the respondent had filed ESA No. 16 of 2008, which was dismissed by this Court on 26.11.2009. Thereafter, the respondent moved CM No. 13705-C of 2009, in that ESA, supported by a duly sworn affidavit dated 7.12.2009, Annexure P-1, praying for stay of the operation of the

judgment dated 26.11.2009 passed by this Court. Vide the order dated 11.12.2009, Annexure P-2, this Court granted time to the respondent to vacate the premises upto 28.2.2010 subject to an unconditional undertaking to be submitted by the respondent within one week from the date of order before the Executing Court to the effect that he will vacate the premises on or before 28.2.2010. However, later on, it transpired that on 11.12.2009 itself, the Hon'ble Supreme Court in the SLP filed by the respondent, Annexure P-4, ordered status quo till 17.12.2009. On 17.12.2009 the SLP impugning the judgment and order dated 26.11.2009 was dismissed.

Learned counsel for the petitioner contends that the respondent had obtained the order dated 11.12.2009 from this Court by misleading the Court on facts. On that very date, the SLP filed by the respondent was heard by the Hon'ble Supreme Court and the factum of filing of SLP was not mentioned in the application filed before this Court.

In reply to the aforesaid, learned counsel for the respondent submits that the respondent was never personally aware of the fact that the SLP had been filed on his behalf by his brother and the same was heard by the Hon'ble Supreme Court. He further submits that no prejudice had been caused to the petitioner as the premises were vacated on or before 28.2.2010.

I have heard the learned counsel for the parties and

have gone through the file.

Admittedly, when the CM, Annexure P-1 was heard by this Court, the respondent had simultaneously filed SLP before the Hon'ble Supreme Court. On the same day, he took two favourable orders. On 11.12.2009, this Court granted time to the respondent for vacation of the premises upto 28.2.2010. On the same day, the Hon'ble Supreme Court ordered status-quo upto 17.12.2009. Had the factum of filing the SLP before the Hon'ble Apex Court, brought before the notice of this Court, the same would have reflected in the order dated 11.12.2009. The respondent intentionally and deliberately misled this Court and kept the premises under his possession from 11.12.2009 to 28.2.2010 illegally. The plea of the respondent that he was unaware of the filing of SLP cannot be accepted as the SLP was filed on behalf of the respondent and under the law, it was an act of the respondent. The respondent is certainly liable to indemnify the petitioner for the loss caused to him. It was a commercial building. The respondent has failed to explain his conduct of projecting two different stands before two different courts. The initiation of inquiry under Section 340 Cr.P.C. is dispensed with while exercising powers under Section 482 Cr.P.C. in the interest of justice. However, the respondent is directed to pay compensation of Rs.50,000/- to the petitioner within two months from the date of receipt of copy of this order. In default of payment of compensation, the respondent shall undergo RI for 2 months.

The petition is partly allowed in the manner indicated above.

2.11.2015.
SN

(JITENDRA CHAUHAN)
JUDGE