

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

CRA-S-1896-SB of 2016.

Decided on:-16.05.2016.

Randeep Singh.

.....Appellant.

Versus

State of Punjab and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment? Yes
2. To be referred to reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

Present:- Mr. Ishan Gupta, Advocate for the appellant.

HARI PAL VERMA, J.

By way of the present appeal, the appellant has challenged the order dated 11.3.2016 passed by learned Special Judge, Sangrur, whereby the application under Section 340 read with Section 195 Cr.PC filed by the applicant, appellant herein, for conducting inquiry against the respondents, who had given false evidence in case titled as “State Versus ASI Randeep Singh” pending in the Court of Special Judge, Sangrur, was dismissed.

Briefly stated, case of the appellant is that an FIR No.16 dated 2.9.2014 under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988 was registered against the appellant at Police Station Vigilance Bureau, Patiala. After completion of investigation, report under Section 173 Cr.PC was prepared and presented in the Court. As per the said report, on 2.9.2014 a Ruqa was handed over to Senior Constable Mandeep Singh and he was

sent from Moonak to Vigilance Bureau, Patiala for getting the FIR registered. Said Constable Mandeep Singh appeared in the witness box as PW7.

It is the version of the appellant that said Constable Mandeep Singh while appearing into the witness box as PW7 has deposed falsely and as such, the appellant moved an application before the trial Court seeking summoning of the respondent for giving his specimen writing. The said application was disposed of by learned trial Court vide order dated 8.2.2016.

It has further been pleaded by the appellant that as per the prosecution version, video recording of the alleged raid was prepared and one CD of said recording was placed on record by the investigating agency. Senior Constable Mandeep Singh, who as per the prosecution version, has taken Ruqa to Vigilance Bureau, Patiala, is also seen present in the said CD. Thus, the prosecution version is blatantly false and involvement of the appellant in the case is an abuse of the process of law.

It has further been pleaded that the police has prepared a wrong CD as Senior Constable Mandeep Singh while appearing into the witness box as PW7 has denied his presence in the CD at Police Station Moonak during his cross-examination. The photographs Mark DX1 to DX8 were got developed from said CD and were shown to PW7, but he denied his photographs. The said CD was played in the trial Court, but PW7 also denied his visual in the said CD.

In these circumstances, the appellant filed an application under Section 340 read with Section 195 Cr.PC seeking prosecution against Senior Constable Mandeep Singh, but the same was dismissed by the trial Court vide impugned order dated 11.3.2016.

It is in these circumstances, the appellant has filed the present appeal.

Learned counsel for the appellant has contended that observations of the learned trial Court that admissibility of photographs Mark DX1 to DX8 is yet to be examined, lack judicial reasoning and logic. Once the Court has observed the presence of Senior Constable Mandeep Singh in the said photographs during his cross-examination, the subsequent observations of learned trial Court while dismissing the application under Section 340 read with Section 195 Cr.PC are in grave contravention to the factum of the case. In support of his contentions, learned counsel for the appellant has relied upon a judgment of Hon'ble Supreme Court in ***M/s Kapil Corepacks Private Limited and others Versus Shri Harbans Lal (since deceased) through Lrs 2010(3) RCR (Civil) 917.***

I have heard learned counsel for the appellant.

Perusal of the impugned order reveals that learned trial Court while dismissing the application under Section 340 read with Section 195 Cr.PC has made a specific observation that the admissibility of photographs Mark DX/1 to Mark DX/8 is yet to be examined at the time of conclusion of

trial. Meaning thereby, the trial Court has not adjudicated the authenticity of those photographs in the impugned order, rather, the question of admissibility of these photographs is still open.

Hon'ble Supreme Court in *M/s Kapil Corepacks Private Limited and others' case (supra)* has observed that when a person gives false affidavit or evidence in proceedings before the Court, complaint can be filed against such person under Section 340 Cr.P.C. However, in the present case, though the application under Section 340 read with Section 195 Cr.PC has been dismissed by learned trial Court, but the admissibility of photographs Mark DX/1 to Mark DX/8 is yet to be examined at the time of conclusion of trial. As such, the authority cited by learned counsel for the appellant is of no help to him as the present appeal is not maintainable at this stage.

In view of the above, this Court does not find any merit in the present appeal and the same is, accordingly, dismissed.

It is, however, made clear that the observations made hereinabove shall not be construed as a reflection of opinion on merits of the case in any manner and the trial Court shall decide the case on the basis of evidence available on record.

May 16, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE