

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

CRM No.M-17106 of 2016 (O&M)
Date of Decision: May 23, 2016

Darshan Kochhar

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.P.S.Ahluwalia, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 read with Section 340 Cr.P.C. against State of Punjab and other respondents, praying for conducting an enquiry and initiating proceedings of perjury against respondents No.2 and 3 for having made false averments on oath and having made an attempt to mislead this Court by filing false affidavit.

Learned counsel for the petitioner argued that respondents Dharamvir Kochhar and Ravi Kochhar had invoked the jurisdiction of this Court by way of CRM No.M-26564 of 2015 praying for issuing of directions to the official respondents to look into the matter and consider the representation as well as complaint submitted by them and to take appropriate action as per law. It was further prayed that directions be issued to respondent No.3 to register FIR against the private respondents for preparing a forged family partition. Learned counsel for the petitioner further argued that the present respondents have filed false affidavit in that

case in which they deposed falsely that Civil Judge (Sr. Divn.) has rejected the above family partition on the ground that same is not correct and cannot be relied upon and is a forged document.

I have heard learned counsel for the petitioner and have gone through the record.

The perusal of the record shows that CRM No.M-26564 of 2015 has been decided by this Court vide order dated 10.09.2015, in which, this Court has passed the order that instant petition may be disposed of with liberty to the petitioners to approach the concerned Court, which would be done within two weeks. It is also held in the order that if the document was not accepted as a genuine document, the remedy available to the petitioners is to make appropriate application before the same Court. In the order passed by this Court, no rights have been determined on merits and no finding has been given by this Court on any point. The fact whether the partition deed is a genuine document or forged one, was not subject matter nor the decision has been given by this Court on this document. It is settled law that the Court can order the prosecution when it is considered expedient in the interests of justice to punish the delinquent and not merely because there is some inaccuracy in the statement which may be innocent or immaterial. It is held by the Hon'ble Supreme Court in ***Chajoo Ram vs. Radhey Shyam and another, AIR 1971 SC 1367*** that there must be prima facie case of deliberate falsehood on a matter of substance and the Court should be satisfied that there is reasonable foundation for the charge. The Hon'ble Supreme Court in ***Iqbal Singh Marwah and another vs. Meenakshi Marwah and another, AIR 2005 SC 2119*** has held as under:-

“In view of the language used in Section 340 Cr.P.C the court

is not bound to make a complaint regarding commission of an offence referred to in Section 195(1)(b), as the section is conditioned by the words “court is of opinion that it is expedient in the interests of justice”. This shows that such a course will be adopted only if the interest of justice requires and not in every case. Before filing of the complaint, the court may hold a preliminary enquiry and record a finding to the effect that it is expedient in the interests of justice that enquiry should be made into any of the offences referred to in Section 195(1)(b). This expediency will normally be judged by the court by weighing not the magnitude of injury suffered by the person affected by such forgery or forged document, but having regard to the effect or impact, such commission of offence has upon administration of justice.....”

I have gone through the above-mentioned judgments and find that in the present case, there is no need to initiate inquiry under Section 340 Cr.P.C. in the facts and circumstances of the present case.

Therefore, finding no merit in the present petition, the same is dismissed.

May 23, 2016
Vgulati

(INDERJIT SINGH)
JUDGE