

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

CRR No.3261 of 2016 (O&M).
Decided on:-14.09.2016.

Pankaj Jain.

.....Petitioner.

Versus

Amrish Bansal and another

.....Respondents.

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

Present:- Mr. Narender Pal Bhardwaj, Advocate
for the petitioner.

HARI PAL VERMA, J.

The petitioner has filed present revision petition against order dated 28.7.2016 passed by learned Additional Sessions Judge, Yamuna Nagar whereby his appeal against the order dated 5.2.2016 passed by learned Additional Chief Judicial Magistrate, Yamuna Nagar, was dismissed.

Vide order dated 5.2.2016, learned Magistrate has dismissed the application under Section 340 Cr.PC filed by the State through complainant (petitioner herein).

Learned counsel for the petitioner-complainant has contended that the respondent No.1-accused has committed perjury by submitting false and forged facts in the Court. The accused has made a false statement on 16.7.2012 during the pendency of the case titled as "State Versus Vikram Singh etc." to the effect that the accused has filed a petition under Section 482 Cr.PC before this Court wherein the proceedings have been stayed. On

the basis of said statement, the case was adjourned to 19.8.2012 with a direction to the respondent-accused to produce copy of said order.

Learned counsel for the petitioner has further argued that, in fact, neither such order was passed nor any stay was granted by this Court. In this manner, the respondent-accused is guilty of submitting false and forged facts for the purpose of using the same in the judicial proceedings and, therefore, he is liable to be prosecuted under Sections 191, 192 and 193 Cr.P.C.

Learned counsel for the petitioner has further contended that in order to initiate proceedings under Section 340 Cr.PC, it is not always necessary that the accused should have enjoyed material gain out of such false statement. Therefore, gain is not required to be established to initiate proceedings under Section 340 Cr.P.C. In support of his contentions, he has relied upon the judgment of Hon'ble Supreme Court in ***Swaran Singh Versus State of Punjab 2000(2) RCR (Criminal) 762*** and submitted that if the criminal justice system is to be put on a proper pedestal, the system cannot be left in the hands of unscrupulous lawyers and the sluggish State machinery. Each trial should be properly monitored. Despite coming to know that a witness is telling a lie and is going back on his previous statement, still the trial Judge does not wish to punish an accused or even file a complaint against such person.

I have heard learned counsel for the petitioner.

Perusal of the impugned order reveals that, no doubt, the

respondent-accused has made a statement in the Court regarding stay in the matter before this Court, but at the same time, he has subsequently confessed that he has made such statement inadvertently, and by making such statement, the accused has not enjoyed material gain and even no loss was suffered by the complainant. No such material has been brought to the notice of this Court that by making said statement, the accused has tried to delay the proceedings.

This Court finds that by making the statement by the accused, no prejudice has been caused to the petitioner in any manner. The provision of Section 340 Cr.PC is not a penal provision, but a part of procedural law under the Code which provides mechanism for trial of criminal cases. The object to take the proceedings under Section 340 Cr.PC in instituting the complaint for giving false evidence is to curb the evil of perjury and to keep the flow of proceedings in the Courts unsullied and pure.

The copy of order dated 23.4.2012 passed by this Court was also received by the trial Court and the accused had also made a statement that on 16.7.2012, he had inadvertently stated that this Court has stayed further proceedings, whereas no such order was passed. This statement was duly recorded by the trial Court vide order dated 29.8.2012. Thus, the statement so made that this Court has stayed the proceedings has not resulted in any miscarriage of justice to the petitioner. Therefore, the observations recorded in *Swaran Singh's case (supra)* are not applicable in the peculiar facts and circumstances of the present case as on the very next date of

hearing, the accused had confessed the fact that he had made the statement on 16.7.2012 regarding stay of proceedings by this Court inadvertently.

Considering the fact that no prejudice has been caused to the petitioner-complainant and the respondent-accused has also not gained out of such statement, which was duly pointed out on the next date of hearing before the trial Court, this Court does not find any illegality in the impugned order dated 5.2.2016 passed by learned Additional Chief Judicial Magistrate, Yamuna Nagar as well as judgment dated 28.7.2016 passed by learned Additional Sessions Judge, Yamuna Nagar.

Accordingly, the present revision petition, being devoid of any merit, is dismissed.

September 14, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes / No

Whether Reportable: Yes / No