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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **LPA 155/2016**

RAJENDRA PRASAD

..... Appellant

Through : Mr. Sandeep Agarwal and Mr. M.K. Singh,
Advocates.

Versus

C. RAMESH

..... Respondent

Through : Mr. Yog Verdhan, Advocate.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

17.10.2016

CM APPL. No. 19485/2016

1. This application under Section 340 of Cr.P.C. has been filed by the respondent in LPA No.155/2016 with a prayer to initiate criminal proceedings against Shri P.R. Santhanam, Joint Registrar of Vallabhbbhai Patel Chest Institute/the appellant alleging that he filed a false affidavit in support of LPA No.155/2016.

2. It is alleged in the application that though the factum of filing Special Leave Petition before the Supreme Court on 16.05.2015 by the appellant/VPCI against the order dated 25.02.2015 in LPA No.106/2015 was suppressed in the main appeal i.e. LPA No.155/2016, the Joint Registrar of

VPCI filed an affidavit dated 22.02.2016 stating on oath that the contents of LPA No.155/2016 are true and correct. Hence the present application under Section 340 of Cr.PC. contending that Joint Registrar of VPCI, Shri P.R. Santhanam committed an offence under Sections 191/193/200 of IPC and therefore enquiry under Section 340 of Cr.P.C. be initiated.

3. Shri P.R. Santhanam, Joint Registrar, VPCI filed an affidavit dated 28.03.2016 stating that the said Special Leave Petition being SLP No.2329/2016 was filed on 16.05.2016 vide diary No.16711 of 2015 as a precautionary measure and the same was kept in abeyance till the order dated 05.11.2015 was passed in Cont. Cas. (C) No.65/2015 and thereafter by order dated 29.02.2016 the SLP was dismissed in limine.

4. We have heard the learned counsel for both the parties.

5. The law is well settled that Section 340 of the Code of Criminal Procedure is to provide a safeguard against the vexatious and frivolous prosecution and there must be sufficient material before the Court to show that an offence within the meaning of Section 340 of the Code of Criminal Procedure is likely to have been committed. Re-course under Section 340 of the Code of Criminal Procedure is to be on only if the interest of justice requires and not in every case. The Court has to exercise great care and caution and has to arrive at a satisfaction that there is reasonable foundation for the charge in respect of which prosecution is directed. No prosecution is to be directed unless there is reasonable probability of conviction and it is

not every false declaration or statement that is intended to be the subject matter of the prosecution.

6. In the light of the facts and circumstances of the case, we are unable to hold that the affidavit dated 22.02.2016 can be termed as a false statement/declaration intended to harass the respondent by vexatious proceedings. We are also of the opinion that the same cannot be termed as a glaring case of deliberate falsehood. Hence, the proceedings under Section 340 of Cr.P.C. are not warranted. It is also relevant to note that the said Special Leave Petition preferred against the judgment in LPA No.106/2015 has no bearing on adjudication of the issues involved in LPA No.155/2016.

7. In view of the above, we find that there is no merit in the application. Accordingly, the same stands dismissed.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

OCTOBER 17, 2016 / gr/kks