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

\+ CRL.A. 1380/2012 & Crl.M.A. Nos.19523/2012, 20169/2012, 17916/2013 & 2643/2015

NARESH KUMAR AGGARWAL ..... Appellant
Through Mr.Bankey Bihari, Adv. with petitioner in person.

versus

VIJAY MITTAL & ORS ..... Respondents
Through Mr.Rajat Katyal, APP for the State.
Mr.B.S. Mathur, Adv. for R-3 & 6.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

O R D E R
% 25.05.2016

In the present appeal, the appellant has challenged the order dated 20th July, 2011 passed by the learned Special Judge, CBI-II, Rohini, Delhi, vide which the application under Section 340 of the Criminal Procedure Code (Cr.P.C.) preferred by the appellant, was dismissed with the observation that proceedings under Section 340 Cr.P.C. and the application under Section 340 Cr.P.C. should normally be considered at the time of final decision of the case and not at the interim stage.

I have heard learned counsel for the parties and gone through the available records. Perusal of the records reflects that an FIR No.138/08 was lodged at Police Station Economic Offences Cell under Sections

406/420/467/468/471/506/120-B of the Indian Penal Code against Mr.Vijay Mittal and Mr.Yogesh Mittal. Mr.Vijay Mittal was arrested by the Police and consequently, he moved a bail application before the learned ACMM on 22nd January, 2011. The counsel for the accused Mr.Vijay Mittal furnished photocopies of two receipts dated 23rd February, 2007 which bore signatures of three persons including complainant and two other persons. Following the dismissal of the bail application by the learned ACMM, the accused Mr.Vijay Mittal preferred another bail application, which was granted by the learned ASJ-1. During the course of arguments before the learned ASJ, allegedly false and fabricated documents i.e. two receipts dated 23rd February, 2007 were filed on behalf of the accused persons, which bore signatures of five persons which also included complainant. Hence, it was argued that the two sets of copies of the documents showed a substantial difference which proved that the receipts were forged.

The application under Section 340 Cr.P.C. was preferred by the petitioner seeking direction for initiating inquiry into the offence of perjury and filing false and fabricated documents with an application duly supported by affidavit of Mr.Vijay Mittal and a deliberate act on the part of the accused persons to mislead the Court by filing forged documents with the knowledge that the same are not genuine and as such, are liable to be prosecuted as per Section 340 Cr.P.C. as well as punishable under

Section 193 and other provisions of Indian Penal Code, committed by the accused persons and for filing and sending the complaint in this respect to the concerned Magistrate for the prosecution of the accused persons apart from getting a separate FIR registered against the accused persons.

The learned Special Judge, CBI-II has rightly relied on ***Punjab Tractors Ltd. v. International Tractors Ltd., 2010 (167) DLT 490*** in which it was held that the Courts must be very cautious in proceeding under Section 340 Cr.P.C. and the application under Section 340 Cr.P.C. should normally be considered at the time of final decision of the case and not at the interim stage.

Undisputedly, the trial is still pending in the case and the matter is at the initial stage. I, therefore, do not find any infirmity in the order dated 20th July, 2011 passed by the learned Special Judge as the same was justified in postponing the hearing on the application filed under Section 340 Cr.P.C. to come along with the main case.

Consequently, no relief can be granted in this appeal and the present appeal and applications are dismissed accordingly.

P.S.TEJI, J

MAY 25, 2016/aa