

CRA-S-550-SB-2016 (O & M)

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

CRA-S-550-SB-2016 (O & M)
Date of Decision: 23.05.2017

Rattan Sagar

... Appellant

Versus

Prem Sagar

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Appellant-Rattan Sagar in person.

INDERJIT SINGH, J.

CRM-4475-2016

Heard.

For the reasons mentioned in the application, the same is allowed. Delay of 126 days in filing the appeal, is condoned.

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Appellant-Rattan Sagar has filed this appeal against respondent-Prem Sagar under Section 482 read with Section 341 Cr.P.C. challenging the order dated 28.07.2015 passed by learned Civil Judge (Jr. divn.), Yamuna Nagar at Jagadhari in Case No.6/15/25.05.2015, titled as 'Prem Sagar vs. Rattan Sagar' vide which application of the appellant under Section 340 Cr.P.C. was dismissed and also challenging the order dated 19.10.2015 passed by learned Additional Sessions Judge,

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Yamuna Nagar at Jagadhari in CA No.549/18.08.2015, vide which appeal of the appellant was dismissed as withdrawn.

I have heard the appellant present in person and gone through the record.

From the record, I find that learned Magistrate dismissed the application filed by the appellant under Section 340 Cr.P.C vide impugned order dated 28.07.2015. Feeling aggrieved against the said order, the appellant preferred an appeal before learned District & Sessions Judge, Yamuna Nagar at Jagadhari which was got dismissed as withdrawn vide order dated 19.10.2015 passed by learned Additional District Judge.

Section 341 Cr.P.C. provides as under:

“341. Appeal.

(1) Any person on whose application any Court other than a High Court has refused to make a complaint under sub- section (1) or sub- section (2) of section 340, or against whom such a complaint has been made by such Court, may appeal to the Court to which such former Court is subordinate within the meaning of sub- section (4) of section 195, and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint, or, as the case may be, making of the complaint which such former Court might have made under section 340, and if it makes such complaint, the provisions of that section shall apply accordingly.

(2) An order under this section, and subject to any

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such order, an order under section 340, shall be final, and shall not be subject to revision.

As per the abovesaid provisions, firstly the appeal against the order of Magistrate will lie to the Court of Session and appeal against the order of Magistrate is directly not maintainable before this Court. Secondly, appeal filed by the appellant has already been got dismissed as withdrawn before the Court of learned Additional District & Sessions Judge. As per Section 341(2) Cr.P.C, an order under this section, and subject to any such order, an order under Section 340 Cr.P.C., shall be final, and shall not be subject to revision.

In view of the above provisions, this appeal is not maintainable before this Court, but only lies before the Court of Session. Therefore, the instant appeal is dismissed being not maintainable.

23.05.2017

parveen kumar

**(INDERJIT SINGH)
JUDGE**

Whether speaking/reasoned	:	Yes
Whether reportable	:	No