

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

CRM No.M-25204 of 2017 (O&M)

Date of Decision: July 18, 2017

Brahm Lal Sharma

...Petitioner

VERSUS

The State of Haryana and another

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ajay Pal Singh, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing the order dated 18.08.2015 passed by learned Judicial Magistrate Ist Class, Rohtak, vide which the petitioner was summoned on the application moved under Section 195/340 Cr.P.C. and order dated 01.06.2017 passed by learned Addl. Sessions Judge, Rohtak, vide which revision filed by the petitioner was dismissed on account of non-maintainability.

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

Sections 340 and 341 Cr.P.C. provides as under:-

“340. Procedure in cases mentioned in section 195.

(1) When upon an application made to it in this behalf or otherwise any court is of opinion that it is expedient in the interest of justice that an inquiry should be made into any

offence referred to in clause (b) of sub-section (1) of section 195, which appears to have been committed in or in relation to a proceeding in that court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that court, such court may, after such preliminary inquiry, if any, as it thinks necessary,-

(a) Record a finding to that effect;

(b) Make a complaint thereof in writing;

(c) Send it to a Magistrate of the first class having jurisdiction;

(d) Take sufficient security for the appearance for the accused before such Magistrate, or if the alleged offence is non-bailable and the court thinks it necessary so to do send the accused in custody to such Magistrate; and

(e) Bind over any person to appear and give evidence before such Magistrate.

(2) The power conferred on a court by sub-section (1) in respect of an offence may, in any case where that court has neither made a complaint under sub-section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the court to which such former court is subordinate within the meaning of sub-section (4) of section 195.

(3) A complaint made under this section shall be signed, –

(a) where the court making the complaint is a High Court, by such officer of the court as the court may appoint;

¹[(b) in any other case, by the presiding officer of the court or by such officer of the Court as the Court may authorise in writing in this behalf.]

(4) In this section, “court” has the same meaning as in section 195.

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

As per Section 341 Cr.P.C., appeal is maintainable against the

order passed under Section 340 Cr.P.C. and no revision is maintainable. The present petitioner till today has not filed any appeal against the order passed under Section 340 Cr.P.C. and has filed the revision, which learned counsel states, was dismissed for non-maintainability. It is provided under Section 341 Cr.P.C. Sub-section 2 that revision is not maintainable and, as already discussed, only appeal lies which the petitioner has not filed so far.

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

However, the petitioner is at liberty to avail appropriate remedy, as per law.

July 18, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No