

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

**CRM No. M-4013 of 2017 (O&M)
Date of Decision: 07.02.2017**

Dr. Baljit Singh

... Petitioner

Versus

State of Punjab and others

... Respondent

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Pardeep Bajaj, Advocate,
for the petitioner.

TEJINDER SINGH DHINDSA, J.

The present petition has been filed under Section 482 Cr.P.C. assailing an order dated 19.09.2016 passed by the Judicial Magistrate Ist Class, Ludhiana (Annexure P-1) whereby an application filed by the petitioner under Section 340 Cr.P.C. has been directed to be tagged along with the file of Civil suit titled as Harish Chander Vs. Sonia Hora bearing CS No.149 dated 16.07.2012.

Brief facts emanating from the pleadings on record are that the petitioner and respondent No.3 are husband and wife. Two daughters are stated to have been born out of wedlock. It has been averred that after some time of the marriage, a dispute arose between the parties. Respondent No.3 was desirous of living separately from the family of the petitioner. Petitioner to ensure peace in the matrimonial life purchased flat No.23-FF situated at Sant Ishar Singh Nagar, Pakhowal Road, Ludhiana from the Ludhiana Improvement Trust through a registered sale deed dated 06.04.2004. Petitioner along with respondent No.3 and his daughters

started residing at the afore-noticed flat. It has been asserted that with the passage of time respondent No.3 gained proximity with one Dimple Rana (respondent No.5 herein) the then District President Youth Congress, Ludhiana and she started remaining busy in political activities. Respondent No.3 is alleged to have started neglecting the children and other household chores. Under such circumstances, the petitioner and respondent No.3 decided to live separately. A memorandum of family settlement dated 02.06.2011 was reduced into writing and as per which possession of the flat was delivered to Dr. Sonia (respondent No.3) for one year i.e. up to 02.06.2012 on certain terms and conditions as contained in the memorandum of family settlement.

It is alleged that intentions of respondent No.3 became dishonest and she wanted to grab the residential flat. In furtherance of such design, a civil suit titled as Dr. Sonia Vs. Dr. Baljit Singh bearing No.862 dated 14.11.2011 for permanent injunction on the basis of memorandum of family settlement dated 02.06.2011 was filed and in which interim stay was granted in favour of Dr. Sonia-respondent No.3 only up to 02.06.2012 i.e. agreed date as per family settlement.

It is averred in the petition that respondent No.3 i.e. Dr. Sonia as also other private respondents having realized that the flat would have to be vacated after 02.06.2012, they connived with each other and hatched a criminal conspiracy and filed a civil suit for permanent injunction at the hands of respondent No.2 and against respondent No.3 alleging that Harish Chander had taken the flat on rent from respondent No.3. Such civil suit was numbered 127 dated 21.05.2012. In such suit, a stand was taken that no rent deed had been executed and the tenancy was oral. In such civil suit,

respondent No.3 is stated to have deliberately not filed a written statement. After two-three adjournments having been sought, respondent No.3 intentionally did not appear just to facilitate the passing of an ex parte stay order. Interim directions having not been passed, matter was adjourned to 17.07.2012 and on such date the suit was withdrawn.

Further allegation is that a second civil suit bearing No.149 dated 16.07.2012 between the same parties and for the same relief during the pendency of the first civil suit was filed on the strength of an ante-dated forged and fabricated rent note dated 03.04.2012.

It is against such brief factual backdrop that the application under Section 340 Cr.P.C. was filed by the petitioner and against the private respondents herein alleging that respondents to have connived with each other having committed cheating and forgery not only with the applicant/petitioner but with the Court as well by furnishing false evidence on the strength of fabricated records and thereby making themselves liable to be punished for offences under Sections 193, 196, 199, 200, 419, 420, 468, 471, 120-B of Indian Penal Code.

Having heard counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that no case for interference is made out.

The application preferred by the petitioner under Section 340 Cr.P.C. on the strength of allegations noticed hereinabove has not been declined. In terms of the impugned order, the application has been directed to be tagged along with the file bearing civil suit No.149 dated 16.07.2012 titled as Harish Chander Vs. Sonia Hora. In other words, application/complaint under Section 340 Cr.P.C. filed by the petitioner is to

be taken up for consideration when the proceedings in the civil suit are concluded and final judgment is rendered.

This Court does not find any infirmity or illegality in such view having been taken in the impugned order dated 19.09.2016.

No case for interference is made out. Petition is dismissed.

It is, however, clarified that dismissal of the instant petition would not be construed as an expression of opinion by this Court on merits with regard to the complaint filed by the petitioner under Section 340 Cr.P.C.

Disposed of.

07.02.2017

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No