

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-692-SB of 2018 (O&M)

Date of Decision: 29.08.2018

Gurkirpal Singh Chawla and others

..... Appellants

Versus

Deepa Duggal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Preetinder S. Ahluwalia, Advocate
for the appellants.

Mr. R. Kartikeya, Advocate
for respondent No.1.

Mr. Atul Gaur, Advocate, for
Mr. Sumeet Goel, Standing Counsel, CBI.

Mr. Kuldeep Tiwari, Additional PP,
for U.T., Chandigarh.

ANIL KSHETARPAL, J.

This appeal has been filed by the appellants against the directions issued by the learned First Appellate Court while deciding a civil appeal to the trial Court to initiate the proceedings under Section 340 of the Criminal Procedure Code.

The questions which are required to be answered are as follows:

1. If the documents were forged before producing them in the Court, whether the Court has no jurisdiction to direct initiation of the proceedings under Section 340 of the Criminal Procedure Code?

2. Whether the learned First Appellate Court is debarred from directing initiation of the proceedings under Section 340 of the Criminal Procedure Code if at one stage the trial Court while hearing the suit had refused to initiate the proceedings and such order on challenge has been upheld by the Revisional Court?

It may be noticed that by a separate judgment passed in RSA No.4233 of 2018 filed by the appellants has been dismissed while upholding the judgments passed by the Courts below.

Learned First Appellate Court while passing an impugned judgment dated 19.01.2018 has held and directed as under:-

“After having heard ld. Counsel for the parties, this court finds that if a forged document is produced in the court then every endeavor should be made that the culprit does not go scot-free and this fact cannot be taken so lightly. If factum of production of forged document in the civil courts is not taken seriously then the courts will be flooded with such type of forged documents and it will become immensely difficult for the court to impart justice. When attention of ld. Trial court was drawn to the aspect of forgery, then ld. Trial court should have given specific findings in this regard but instead of doing so, it has simply ignored the same by giving a finding that this document was used by the plaintiffs only for the purpose of loan. However, this court is immensely surprised to observe that as to why ld. Trial court did not take notice of the fact that forged documents were not only produced before the bank authorities rather same were produced before the court as well. If these documents were produced only before the bank authorities and had not been produced in the court then definitely the court had no concern with the same and it was for the bank authorities and for the respondent to file the criminal complaint but once these documents were produced in the court, then it had become the duty of the court to take the

matter to its logical conclusion specially when this fact had been brought to the notice of court. After perusing the case file, this court finds that it has been proved on record that the appellants had committed forgery by forging the signatures of respondent no.1, Smt. Phool Duggal, Smt. Jagpal Gambhir and Ms. Gunita Duggal on 'memorandum of family settlement Ex.P-17 which had been produced on record by the plaintiffs. The documents available on the file also establish that before fabricating the document Ex.P-17, the plaintiffs had done rehearsal for copying the signatures of above named persons which is quite evident from Ex.P-1 i.e. copy of original family settlement. This document was given to Punjab National Bank by the plaintiffs which fact has been admitted by PW-1 in his cross-examination. Besides this, it has also been admitted by the plaintiff in his cross-examination that Sh.G.S. Bhatti one of the witness of the memorandum of family settlement Ex.P-17 is father-in-law of appellant Hamrit Singh and other witness Sarbjit Singh, son of Joginder Singh is friend of Sh.GS Bhatti, which clearly establish that document Ex.P-17 was forged by the appellants themselves and the explanation given by the plaintiff that this document was given to them by respondent no.1 holds no ground that defendant no.1 had given fresh memorandum of family settlement to the plaintiffs for the purpose of raising loan from the bank. Even otherwise, if said fabrication had been made by the defendants, then they would not have introduced relatives of the plaintiffs as witnesses of forged documents rather they would have obtained the signatures of their relatives on these documents and since family members of the plaintiffs are witnesses of the said forged documents, hence there is no possibility of fabrication of these documents by the defendants rather the plaintiffs had fabricated these documents.

Apart from this, the appellants had forged the signatures of defendant no.1 on fake agreement for sale dt. 28.7.2005 (Ex.D-13) and this document was fabricated by the appellants for the purpose of raising housing loan of Rs.6.25 crores from the Punjab National Bank and it had also been got exhibited on

the judicial file as Ex.D-13 by Sh.V.K. Arora, official of the Punjab National Bank who had brought the complete file with regard to the housing loan applied by the plaintiffs and had been summoned by the plaintiffs themselves and forgery of this document is proved as this document/agreement to sell does not find mention in the entire pleadings of the parties as well as entire evidence led by the plaintiffs, therefore, Sh. Hamrit Singh, while appearing as PW-1 did not answer in this regard during his cross-examination and this fact proves on record that this document has been submitted to the Punjab National Bank by the appellants at the time of applying for housing loan because the bank was not ready to sanction loan on the basis of the original documents signed by the defendants and only in order to facilitate sanctioning of loan, the plaintiffs had fabricated these documents and submitted the same before the bank authorities and later on had produced the same in the court. During his cross-examination, the plaintiff has stated that prior to agreement for sale, there was an agreement which was ultimately destroyed due to change in terms and conditions in deal and said agreement was superseded by Ex.P-2. The copy of destroyed/cancelled agreement alongwith copy of Ex.P-2 may have been submitted for obtaining the loan. Although the plaintiff had tried to manipulate the facts by stating in his cross-examination that "I cannot state that if Mark B is the photocopy of the destroyed agreement which was submitted with the bank alongwith Ex.P-2". However, it has come in the evidence of PW-3 Sh.V.K. Arora, Senior Manager that Ex.D-13 was the only agreement for sale submitted by the plaintiffs for sanction of the loan which falsify the version of the plaintiff who has admitted the signatures on this document.

Besides it, the appellants have forged the signatures of Smt. Phool Duggal since deceased on the affidavit and site plan Ex.P-22 and Ex.D-12 which were also submitted by the appellants to Punjab National bank for sanctioning of their housing loan and this fact has been admitted by the plaintiff in his cross-examination and he has admitted his signatures at

Point B on Ex.D-12. Signatures of Smt. Phool Duggal on document Ex.P-12 and D-12 are admittedly forged because its nobody's case that any such affidavit and site plan was given by Smt. Phool Duggal to the bank which clearly shows that these documents were also forged by the appellants for the purpose of getting the housing loan sanctioned.

In view of above circumstances, it has been proved on the file that the plaintiffs had fabricated these documents to submit the same before the bank authorities for obtaining loan and thereafter they had utilized these documents in judicial proceedings by summoning the record from the bank authorities and got these documents exhibited and as such proceedings under Section 340 of Criminal Procedure Code are liable to be initiated against them by ld. Trial court as such the ld. Trial court is directed to initiate the proceedings under section 340 of Criminal Procedure Code against the plaintiffs as well as the false witnesses who had appended their signatures on these documents by filing criminal complaint against them, after obtaining copies of these documents in accordance with law.”

The aforesaid directions issued by the learned First Appellate Court has been challenged in the present appeal filed under Section 341 of the Criminal Procedure Code, 1973.

Learned counsel for the appellants while articulating his arguments has submitted that the Hon'ble Constitutional Bench while adjudicating upon, difference in opinion in two judgments passed by the Hon'ble Supreme Court has upheld the judgment passed in the case of Sachida Nand Singh Vs. State of Bihar 1998(2), SCC 493. He submitted that in the Sachidanand's case, Hon'ble Supreme Court has held that no complaint by the Court would be necessary and private complaint would be maintainable, if the documents are forged outside the precincts of the Court and this view has been approved by the Hon'ble Constitutional Bench in the

case of Iqbal Singh Marwah and another Vs. Meenakshi Marwah and another (2005) 4 SCC 370. Hence, the directions issued by the learned First Appellate Court are perverse and not sustainable. He further submitted that before the trial Court also, similar application under section 340 of the Criminal Procedure Code was filed which was dismissed and a revision petition filed against the aforesaid order was also dismissed by the Court of Additional Sessions Judge, Chandigarh dated 05.07.2017. Hence, he submitted that once a Court of coordinate jurisdiction has already upheld the order the trial Court, therefore, the directions could not be issued. He further submitted that the respondents have concealed the fact from the Court that these documents which are alleged to have been forged are subject matter of investigation on the basis of private complaint by Central Bureau of Investigation wherein the challan has been presented. He further submitted that no directions could be issued by the learned First Appellate Court to the trial Court to register the case.

On the other hand, learned counsel for the respondents has submitted that the appellants have prima facie committed two offences. One forgery of the documents and second utilization of the forged documents by producing the same in the Court with a view to influence the Administration of Justice by the Court. He submitted that the discretion is always with the Civil Court to initiate the proceedings or not. He further submitted that the judgments passed by the Constitutional Bench in Iqbal Singh Marwah's case (supra) holds that the bar under Section 195 of the Criminal Procedure Code would be applicable or not if documents are forged before being produced in the Court. He submitted that Hon'ble Constitutional Bench only laid down that the bar to file a private complaint

at the behest of a party as provided under Section 195 of the Criminal Procedure Code, 1973 would not be applicable if a document is forged outside the Court and thereafter, produced in the Court. He submitted that even in the judgment passed by the Hon'ble Supreme Court in the case of Sachida Nand's case (supra), it is nowhere been laid down that the Court is debarred from directing or initiating the proceedings under Section 340 of the Criminal Procedure Code, 1973. He further submitted that no doubt, the learned trial Court had refused to initiate the proceedings under Section 340 of the Criminal Procedure Code which has been upheld, however, on careful reading of the order passed by the learned Additional Sessions Judge, Chandigarh dated 05.07.2017, it is apparent that the learned Court had dismissed the revision petition on the ground that the discretion vest in the trial Court to initiate proceedings or not. The learned Additional Sessions Judge has also refused to interfere on the ground that it is a dispute between two private individuals. Hence, he submitted that the order passed while dismissing the revision petition would not operate as issue estoppel for the learned First Appellate Court while deciding the first appeal arising from the Civil Court.

He further submitted that there are concealment of facts. He submitted that all the facts were before the learned First Appellate Court and the learned Court was very much in knowledge of the fact that a private complaint is pending before the Court after registration of the case. He further submitted that the learned First Appellate Court has not directed the registration of the case. He submitted that the learned First Appellate Court has only directed the trial Court to initiate the proceedings under Section 340 of the Criminal Procedure Code against the plaintiffs and the witnesses

who have appended their signatures on those forged documents.

After evaluating the arguments of learned counsel for the parties, this Court is called upon to adjudicate the questions which have been framed above.

Question No.1

- (i) *If the documents were forged before producing them in the Court, whether the Court has no jurisdiction to direct initiation of the proceedings under Section 340 of the Criminal Procedure Code?*

Section 195 of the Criminal Procedure Code, 1973 bars the Court to take cognizance of prosecution for contempt of lawful authority of public servants or the Court, for offences against public justice and for offences relating to documents given in evidence. Section 195(1)(b)(i) refers to offences under Section 193 to 196 of the IPC. Section 195 bars the entertainment of a complaint except on a complaint made by the Court. Section 193 is in Chapter XI of the IPC which deals with giving false evidence and offences against public justice. Section 195 provides for punishment, whosoever intentionally give false evidence in any stage of the judicial proceedings or fabricate evidence for the purpose of being used in any stage of judicial proceedings. Section 193 as well as Section 195 of the Criminal Procedure Code are extracted as under:-

“193. Cognizance of offences by Courts of Session.—Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the case has been committed to it by a Magistrate under this Code.”

“195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.—

(1) No Court shall take cognizance—

(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code, (45 of 1860), or

(ii) of any abetment of, or attempt to commit, such offence, or

(iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;

(b)(i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause(i) or sub-clause (ii),

[except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.]

(2) Where a complaint has been made by a public servant under clause (a) of sub-section (1) any authority to which he is administratively subordinate may order the withdrawal of the complaint and send a copy of such order to the Court; and upon its receipt by the Court, no further proceedings shall be taken on the complaint:

Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

(3) In clause (b) of sub-section (1), the term "Court" means a Civil, Revenue or Criminal Court, and includes a tribunal constituted by or under a Central, Provincial or State Act if

declared by that Act to be a Court for the purposes of this section.

(4) For the purposes of clause (b) of sub-section (1), a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the principal Court having ordinary original civil jurisdiction within whose local jurisdiction such Civil Court is situate:

Provided that—

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;

(b) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.”

Still further, Section 340 deals with the procedure for initiating the proceedings under Section 195 of the Criminal Procedure Code.

Section 340 of the Criminal Procedure Code is extracted 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 interests 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 of 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;

(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."

It is apparent from the reading of the aforesaid statutory provisions that the Court has been debarred from taking cognizance of the offences spelled out in Section 195 except on the complaint in writing made by that Court or by such officer of the Court, authorized in writing in this behalf or of some other Court to which that Court is subordinate. The Hon'ble Constitutional Bench in case of Iqbal Singh Marwah's case (supra) while trying to resolve the conflicting opinions, has approved the view in the case of Sachida Nand's case (supra). In Sachida Nand's case, the question which was posed by the Court for determination was as under:-

“Can prosecution be maintained in respect of a forged document produced in Court unless the complaint has been filed by the Court concerned in that behalf?”

In other words, the question involved in the aforesaid appeal

was whether the bar contained in Section 195(1)(b)(ii) of the Criminal Procedure Code, 1973 would apply to such prosecution on the basis of a private complaint.

Hon'ble Supreme Court held that the bar contained in Section 195(1)(b)(ii) of the Code is not applicable to case where documents are forged before the document was produced in a Court. Learned counsel for the appellant while referring to para 12 of the judgment contended that the Hon'ble Supreme Court has held that any document which is forged outside the Court, and is produced in Court cannot be treated as one effecting administration of justice merely because the document later reached the Court. He further while referring para 7 of the judgment in Iqbal Singh Marwah's case (supra) has submitted that the Hon'ble Constitutional Bench has already held that no complaint by Court would be necessary and a private complaint would be maintainable. Para 7 of the judgment passed by the Constitutional Bench is extracted as under:-

“7. On a plain reading clause (b)(ii) of sub-section (1) of Section 195 is capable of two interpretations. One possible interpretation is that when an offence described in Section 463 or punishable under Section 471, Section 475 or Section 476 Indian Penal Code is alleged to have been committed in respect of a document which is subsequently produced or given in evidence in a proceeding in any Court, a complaint by the Court would be necessary. The other possible interpretation is that when a document has been produced or given in evidence in a proceeding in any Court and thereafter an offence described as aforesaid is committed in respect thereof, a complaint by the Court would be necessary. On this interpretation if the offence as described in the Section is committed prior to production or giving in evidence of the document in Court, no complaint by Court would be necessary and a private complaint would be

maintainable. The question which requires consideration is which of the two interpretations should be accepted having regard to the scheme of the Act and object sought to be achieved.”

A judgment passed by a Constitutional Bench is not to be read in the manner learned counsel for the appellant wants to be read. The judgment passed by the Superior Court is no doubt binding on all the Court in India, however, the judgment is not required to be read as a statute. The judgment passed by the Hon'ble Supreme Court is to be understood and applied in the context it was delivered. It is also well settled that the only ratio dissendie is binding and not obitar dicta. Hon'ble Constitutional Bench while deciding the Iqbal Singh Marwah's case (supra) was resolving conflict of opinion in the case of Surjit Singh Vs. Balbir Singh, 1996(3) SCC 533 and Sachida Nand's case (supra). The Hon'ble Constitutional Bench only upheld that the view expressed that view in Sachida Nand's case is correct interpretation of the law. In the case of Sachida Nand, it is nowhere been laid down that even if the Court comes to a conclusion that attempt has been made to interfere in the administration of justice by production of documents which to the knowledge of the parties were forged, the Court is debarred from directing initiation of proceedings. In these circumstances, this Court does not find any substance in the first argument of learned counsel for the appellant. It will be noted that if the argument of learned counsel for the appellant is accepted, the litigants would feel encouraged to produce forged and fabricated documents in evidence with a view to secure the judgment in their favour without having any fear of the action by the Court may decide to take. It has rightly been observed by the learned First Appellate Court that if the Court finds that a

forged document has been produced in the Court, then every attempt should be made to ensure that the culprit does not go scot-free. This Court is also of the considered view that the opinion of the learned First Appellate Court does not suffer from any error. It will be noted that learned counsel for the appellant did not address any argument on the prima facie finding of the learned First Appellate Court regarding prima facie conclusion of the forgery of the documents produced in evidence.

A five Judge Bench of this Court in the case of Madan Lal Sharma Vs. Punjab and Haryana High Court, 1999 (2) RCR Criminal 223 has held that there is no bar placed upon the Court to take cognizance of the offences that are spelled out in Section 195(1)(b)(ii) of the Code, if the document has been forged outside the precincts of the Court and thereafter produced in the Court, to entertain a private complaint. The judgment relied upon by learned counsel for the appellant in the case of Sachida Nand's case (supra), the Court only made an observation which cannot be said to be a ratio dissendie. In the case of Sachida Nand, the Court was dealing with the facts of the case and therefore, the Court only held that Section 195 would not bar the private complaint. It is nowhere held that the Court is debarred from taking cognizance of the offence when it comes to the notice of the Court that the offences spelled out in Section 195 have been committed while knowingly producing forged document in the Court.

Hence, question No.1 is answered against the appellants.

Question No.2

(ii) *Whether the learned First Appellate Court is debarred from directing initiation of the proceedings under Section 340 of the Criminal Procedure Code if at one stage the trial Court while hearing the suit had refused to initiate the proceedings and such*

order on challenge has been upheld by the Revisional Court?

Learned counsel for the appellant laid much stress on the fact that the learned trial Court while deciding the suit had refused to initiate the proceedings and the aforesaid order has been upheld in revision petition by the learned Additional Sessions Judge. It will be noted that the Additional Sessions Judge in the order dated 05.07.2017 while dismissing the revision petition has only held that the discretion is with the trial Court and it was not the case where the documents have been tampered with after it was produced in the Court and hence, at the most it is a dispute between the two private individuals. In the considered view of this Court, once a superior Court, while adjudicating upon a civil appeal, has found that the documents produced in evidence by the plaintiffs in the suit are prima facie forged before they were produced in the evidence, the jurisdiction of the Appellate Court to direct initiation of proceedings under Section 340 of the Criminal Procedure Code would not stand scuttled merely on account of fact that the order of the trial Court refusing to initiate the proceedings under Section 340 Cr.P.C. has been upheld in revisional jurisdiction. The operative part of the order passed by the learned Additional Sessions Judge while dismissing the revision petition is extracted as under:-

“The Court is not to become a party to the dispute between the private individuals. It is entirely discretion of the Ld. trial before whom the affidavit has been brought on record. It is also considered that the document in the Court has not been tampered with and at the most it is a dispute between the private individuals.”

In view of the aforesaid observations, this Court does not find that the learned First Appellate Court was debarred from directing initiation of proceedings. The jurisdiction of the Court while deciding a revision

petition is very limited whereas the jurisdiction of the Court while deciding the first appeal is very wide. Learned First Appellate Court while deciding a civil appeal is required to re-appreciate the evidence and in a way, it is re-hear the suit itself. Learned First Appellate Court being last Court of fact is expected to re-analyze the evidence led by the parties as also critically analyze the reasons given by the Court of first instance and thereafter decide the matter. Hence, there is difference between the scope of jurisdiction of the Court while deciding a revisional jurisdiction under Code of Criminal Procedure and scope of jurisdiction of the Court under Section 96 of the Code of Civil Procedure. Therefore, no error can be found in the judgment passed by the learned First Appellate Court directing initiation of proceedings. It will be noticed that the defendants in the civil suit had challenged the order passed by the learned Additional Sessions Judge, however, the proceedings under Section 482 were dismissed as infructuous as by that vide order dated 09.03.2018, the directions were issued by the learned First Appellate Court while deciding the first appeal.

Argument of learned counsel that revision petition filed by the Additional Sessions Judge has been dismissed also does not have substance as bar under Section 300 of the Code of Criminal Procedure cannot be invoked only on initiation of proceedings. Section 300 of the Cr.P.C. envisages that if a person is convicted or acquitted in respect of offence, in that case, he cannot be tried again. In the present case, no one has been convicted or acquitted. Mere dismissal of the revision petition against the order of the trial Court refusing to initiate the proceedings under Section 195 of Cr.P.C. does not amount to conviction or acquittal. Still further, Section 195(1)(b)(i) & (ii) of the Code of Criminal Procedure do not deal

with the power of the Court before whom proceedings are already pending. The bar from taking cognizance is on the other Court before which a complaint is sought to be made in respect of the proceedings pending in the other Court. Hence, the bar under Section 195 is not applicable to the Court where proceedings are pending. The bar as laid down in Section 195 applies on the second Court and not on the first Court. Even in the case of Sachida Nand's (supra), the Court was dealing with the powers of the second Court where a private complaint was presented and not on the first Court where proceedings were pending.

Accordingly, the question No.2 is also answered against the appellants.

Next argument of learned counsel for the appellants is that the complaint has concealed private complaint which resulted into registration of FIR by the Central Bureau of Investigation and presentation of challan is just to be noticed and rejected because in the considered view of this Court, forging of a document is a separate offence whereas production of the document in the Court intentionally with a view to interfere in administration of justice is a separate offence in Chapter XI of the IPC. Hence, the scope of trial in the FIR and scope of complaint lodged by the Court would be entirely different. Still further, it is incorrect on the part of learned counsel for the appellants to contend that registration of FIR by the CBI and the presentation of challan has been concealed by the respondent-herein. It will be noted that all these facts were before the learned First Appellate Court being part of the trial Court record as in the application dated 26.07.2011, factum of application for registration of FIR has been specifically disclosed. Hence, there is no concealment from the Court.

Next argument of learned counsel for the appellants is also without substance as the learned First Appellate Court has not directed the trial Court to register the case. Learned First Appellate Court has only directed the trial Court to initiate the proceedings under Section 340 of the Criminal Procedure Code. The directions to initiate the proceedings under Section 340 of the Criminal Procedure Code cannot be equated with a final opinion on the guilt of the appellants. The learned First Appellate Court has only drawn a prima facie view and therefore, directed initiation of proceedings. Such directions are only for the purpose of initiating the proceedings and the learned trial Court while dealing with the complaint under Section 340 of the Criminal Procedure Code would be free to decide the case independently without being influenced by the directions of the learned First Appellate Court.

In view of what has been discussed above, this Court does not find any good ground to find any substance in the appeal filed by the appellants.

The pending miscellaneous application, if any, shall stand disposed of accordingly.

Hence, the appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

29.08.2018
Dinesh Bansal

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No