

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Revision No. 729 of 2016

Date of Decision: January 29, 2018

Vinod Kumar Sharma

.....Petitioner

versus

Ashok Sangwan and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Ashish Grover, Advocate
for the petitioner

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Sudhir Mittal, J. (Oral)

The petitioner had filed an application, dated 25.04.2012 under Section 340 read with Section 195(b)(i) Cr.P.C., 1973 for prosecution of the respondents. The said application was dismissed vide order dated 25.11.2014 by JMIC, Chandigarh. The appeal against the same has also been rejected vide judgment dated 21.11.2015 by the Sessions Judge, Chandigarh. Hence, the present revision petition.

2. Learned counsel for the petitioner contends that the FIR No. 9 dated 23.12.2014 against the petitioner under Sections 407, 471 and 474 IPC was registered at Police Station Vigilance, Chandigarh because the petitioner had been granted relief by the Central Administrative Tribunal against the illegal action of respondent No. 1. Hence, the contention is that the prosecution under the aforementioned FIR was malafide as there was no ground for lodging the said FIR. He further contends that the qualification certificate was genuine one and that E-mail dated 26.1.2005, had been sent to the Department by Air Commander R.V. Kumar categorically stating that the qualification certificate was infact genuine.

3. So far as E-mail dated 26.1.2005 is concerned, it is on record, that the prosecution had sought to summon Air Commander R.V. Kumar by way of an application under Section 319 Cr.P.C., which was opposed by the petitioner. The application was ultimately dismissed by the trial Court. Thus, it does not lie in the mouth of the petitioner to now state that the prosecution was remiss in its duty to produce appropriate evidence even though the same was in its knowledge. Regarding the prosecution being malafide, the petitioner can avail his remedy of seeking damages. There is no error in the judgments of the Courts below, so far as application under Section 340 Cr.P.C. is concerned.

4. There is another aspect of the matter. The present revision has been filed challenging judgment dated 21.11.2015 whereby appeal filed under Section 341 Cr.P.C. was dismissed. According to Section 341(2) Cr.P.C., such an order is not revisable. Hence, the present revision petition is not maintainable.

5. The petition is, accordingly, dismissed.

January 29, 2018
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No