

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

**CRR No.2965 of 2018 (O&M)
Date of Decision: 19.03.2019**

Mewa Singh

..... Petitioner

Versus

Dilbag Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Darshan Singh, Advocate for
Mr. Kulwant Singh Dhanora, Advocate for the petitioner.

MAHABIR SINGH SINDHU, J. (Oral)

Present petition has been filed under Section 401 Cr.P.C. for setting aside the impugned order dated 09.07.2015, passed by learned Judicial Magistrate 1st Class, Hisar as well as judgment dated 20.01.2018, passed by learned Additional District Judge, Hisar, whereby the appeal of the petitioner filed under Section 341 Cr.P.C. against the above order dated 09.07.2015 has been dismissed.

It is argued by learned counsel for the petitioner that both the Courts below have committed a grave error of law while dismissing the application of the petitioner as well as the appeal on the ground that petitioner has lost the Civil Suit and further observing that application under Section 340 Cr.P.C. has been made just to settle the personal score between the parties.

Heard learned Counsel for the petitioner and perused the paper-

Case file reveals that petitioner/plaintiff filed a Civil Suit No. 284-C dated 06.03.2013/30.08.2013 for declaration and mandatory injunction against his brother/respondent No.1-Dilbag Singh and two others, namely, Miya Singh and Teka for setting aside the Sale Deed No.1587 dated 13.03.1974 on the ground that the same has been executed by respondent/defendant No.1 illegally inasmuch as the share of the petitioner/plaintiff was also sold.

It transpires that after due contest, the petitioner/plaintiff remained unsuccessful before learned trial Court and lost the civil suit. It is not clear from the paper-book whether the same has further been challenged or not and even the same is not relevant for deciding the present petition.

During the pendency of the civil suit, respondent Nos.1 and 2 were examined as DW 1 and DW 2, respectively. Copy of Sale Deed dated 13.03.1974 was exhibited as P-1. Respondent No.1, in his written statement, adopted a stand that Sale Deed does not bear his thumb impression and while appearing as DW-1 also, he supported the version made in the written statement. Similarly, DW-2 also corroborated the assertions made in the written statement as well as testimony of DW-1. However, petitioner/plaintiff examined one handwriting expert as PW-2, who submitted his report (Ex.PW2/A) while opining that thumb impressions of respondent No.1, affixed on the Sale Deed (Ex.P-1), are tallying with the standard thumb impression of his left hand.

In view of the above factual position, petitioner/plaintiff filed an application under Section 340 Cr.P.C. for making a complaint for commission of offence under Sections 193, 199 and 200, IPC against

respondent Nos.1 & 2 and which was dismissed by learned JMIC, Hisar on 09.07.2015. Aggrieved against the above order, an appeal was preferred under Section 341 Cr.P.C., but the same has also been dismissed while passing the impugned judgment. Hence, the present petition.

Concededly, the petitioner/plaintiff has lost the civil suit and even the copy of judgment and decree, passed by learned trial Court has neither been shown to this Court; nor appended with the paper-book to have a glance regarding the findings recorded by learned Civil Court for the reasons best known to the petitioner.

Proceedings under Section 340 Cr.P.C. are not to be resorted in a routine manner like other criminal proceedings, rather the opinion of the Court is pre-requisite for the expediency of the interest of justice and an enquiry is to be made regarding the offences enumerated under clause (b), sub-section 1, of Section 195 Cr.P.C. In the present case, both the Courts below have categorically come to the conclusion that application under Section 340 Cr.P.C. has been filed by the petitioner just to settle his personal score against the opposite side and he has failed to prove that such a course would be expedient in the interest of justice for conducting any enquiry in consonance with provisions of Section 195 Cr.P.C. Even before this Court also, the petitioner is not able to point out as to in what manner, the testimonies of DW-1 and DW-2 have affected the administration of justice for warranting the proceedings under Section 340 Cr.P.C. at the instance of a private person i.e. petitioner by the concerned Court against the respondents.

In view of the above, this Court is fully convinced that petitioner wants to wreck his vengeance against the private respondents and there is nothing on record to substantiate that proceedings under Section 340 Cr.P.C. would be expedient in the interest of justice. Thus, there is no merit in the present petition. Accordingly, the same is dismissed.

March 19, 2019
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(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>