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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 3340/2019

SATISH KUMAR

..... Petitioner

Through: Mr S. N. Gupta, Advocate.

versus

GOVT. OF NCT OF DELHI AND ANR.

..... Respondents

Through: Ms Sangita Rai and Mr Pradeep
Singh Tomar, Advocates for R-
1/GNCTD.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **08.04.2019**

1. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to the Magistrate (North West District) to take cognizance against respondent no.2 for swearing to false affidavit. The petitioner also impugns an order dated 11.12.2018 passed by respondent no.1, rejecting the petitioner's prayer to the aforesaid effect.
2. The allegation against respondent no.2 is that he has sworn a false affidavit stating that the date for the pronouncement of the judgment by the SDM was fixed on 30.03.2017, but he had wrongly and illegally passed an order dated 28.03.2017. The petitioner had filed an application under Section 340, CrPC alleging that the said statement was false. Respondent no.1 (Financial Commissioner, Government of NCT of Delhi) had examined the aforesaid contention and found that respondent no.2's statement was incorrect. By the order dated 31.05.2018, respondent no.1 also imposed a

penalty of ₹10,000/- on respondent no.2 for making a false statement.

3. It is clear from the order dated 31.05.2018 that the said directions were passed in the application filed by the petitioner, under Section 340 of the CrPC. It is also clear that the said application was disposed of with the imposition of the said fine.

4. Respondent no.1 had accordingly, by the impugned order dated 11.12.2018 dismissed the petitioner's application seeking that an order be passed for referring the matter to the Magistrate for further proceedings. It is implicit in the order dated 31.05.2018, that respondent no.1 was of the view that there was no requirement to do so and had therefore, disposed of the petitioner's application under Section 340, CrPC, by levying a fine of ₹10,000/-. This Court does not find any infirmity with the aforesaid decision. The order under Section 340, CrPC is required to be passed only if the concerned Court considers that the same is necessary in the interest of justice. Clearly, in the present case, respondent no.1 was of the view that the interest of justice was met by the imposition of fine.

5. The present petition is, accordingly, dismissed.

VIBHU BAKHRU, J

APRIL 08, 2019
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