

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

CRR-17-2022

Date of Decision: 11th July, 2022

Ajaib Singh

... Petitioner

Versus

Kewaljit Singh and another

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Arvind Kashyap, Advocate for the petitioner.

AVNEESH JHINGAN , J.(Oral)

1. The petitioner was selling his agriculture produce through respondent No.1 who was working as a Commission Agent in name and style of M/s Bhullar and Brothers, Grain Market, Khamanon. Cross suits for recovery were filed by the petitioner and respondent No.1. In the suits, original daily book having entries of transactions with signatures of petitioner was produced by respondent No.1. It was claimed that each entry was signed by the petitioner in presence of respondent No.1. The signature on one entry was disputed by the petitioner. It was alleged that said entry was forged. An application under Section 340 Cr.P.C. was filed for registration of the case. The suit filed by the petitioner was dismissed and suit of respondent No.1 was partly decreed. The litigation between the parties was decided in a Regular Second Appeal by this Court and it was held that respondent No.1 was not able to prove the entry disputed by the petitioner. The prayer for registering a case under Section 340 Cr.P.C. was rejected vide order dated 9th March, 2016.

2. Aggrieved of the order, an appeal was filed, which was dismissed on 6th January, 2020.

3. Learned counsel for the petitioner submits that the daily book produced was in the possession of respondent No.1 and there was a report of handwriting expert that the signature on the entry was not of the petitioner.

4. At this stage, it would be relevant to reproduce the para 6 of the Appellate Order:-

“ I have heard learned counsel for the parties and have gone through the record of the case. The application was filed under Section 340 Cr.P.C. for registration of the case under Section 420, 465, 466, 467, 471 of IPC against the respondents for forging the entry Ex.D-9 and it was alleged that the said entry was declared to be forged, by Hon'ble High Court. The perusal of the judgment passed by Hon'ble High Court in RSA No. 3439 of 2007, shows that nowhere the entry has been held to be forged and merely it has been stated that respondent could not prove the said entry. Moreover, as per Section 340 of Cr.P.C., the proceedings can be initiated after holding enquiry if in the opinion of the Court it is expedient in the interest of justice to proceed under Section 340 Cr.P.C. No allegation was levelled that the alleged forgery was committed while the document was already filed in the Court. Even otherwise merely because one of the entry in the account book could not be proved by the respondents that by itself will not lead to the conclusion that the same was forged especially in view of the fact that the petitioner has not been able to show that any Court gave specific finding that the said entry was forged and fabricated.

Thus, keeping in view above, trial court rightly held that court is not bound to make complaint in the present case only because one of the entry in the account book was not found to be trustworthy.”

5. In Appeal (crl.) 402 of 2005, titled as **Iqbal Singh Marwah and another vs. Meenakshi Marwah and another**, the Supreme Court held as under:-

“18. In view of the language used in [Section 340 Cr.P.C.](#) the Court is not bound to make a complaint regarding commission of an offence referred to in [Section 195\(1\)\(b\)](#), as the Section is conditioned by the words "Court is of opinion that it is expedient in the interest of justice." This shows that such a course will be adopted only if the interest of justice requires and not in every case. Before filing of the complaint, the Court may hold a preliminary enquiry and record a finding to the effect that it is expedient in the interests of justice that enquiry should be made into any of the offences referred to in [Section 195\(i\)\(b\)](#). This expediency will normally be judged by the Court by weighing not the magnitude of injury suffered by the person affected by such forgery or forged document, but having regard to the effect or impact, such commission of offence has upon administration of justice.”

6. In litigation between parties, no Court had recorded a finding that entry was forged. Mere failure of respondent No.1 to prove an entry in itself would not be enough to proceed under Section 340 Cr.P.C.

7. Supreme Court in **New India Assurance Co. Ltd. Vs. Krishna Kumar Pandey, 2020(1) Ori. Law Rev. 246** held as under:-

“8. The scope of the revisional jurisdiction of the High Court (or Sessions Court) under [Section 397 Cr.P.C., 1973](#) is limited to the extent of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order passed by an inferior Court. The revisional Court is entitled to look into the regularity of any proceeding before an inferior Court. As reiterated by this Court in a number of cases, the purpose of this revisionsal power is to set

right a patent defect or an error of jurisdiction or law.”

7. The scope of interference in revision proceedings is limited.
- No case is made out for interference in the present case as there is no factual or legal error in the finding recorded by the Appellate Court.
8. The petition is dismissed.

(AVNEESH JHINGAN)
JUDGE

11th July, 2022
Parveen Sharma

Whether reasoned/speaking	Yes
Whether reportable	Yes