



\$~55(Appellate Side)

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

+ CM(M) 457/2022 & CM APPL. 23242/2022

ANIL BHASIN Petitioner

Through: Petitioner in person

versus

JASBIR KAUR & ANR. Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

JUDGEMENT (ORAL)

% **17.05.2022**

1. This petition, under Article 227 of the Constitution of India, impugns an order, dated 6th April, 2022, passed by the learned Additional District Judge ("the learned ADJ") in Misc. D.J. 271/2017, on an application filed by the petitioner under Section 340 of the Code of Criminal Procedure, 1973 ("the CrPC").

2. The petitioner was the plaintiff in CS 11143/2016 in which the aforesaid application Misc. D.J. 271/2017, came to be filed. The petitioner sought initiation of proceedings against Respondent 2 on two ground. The first was the signatures of Respondent 1, in the written statement, filed by Respondent 1, were not hers, and that Respondent 2 had forged her signatures. The second was that the Respondent 2 had, despite repeated directions from the Court, failed to provide the complete number of the credit card obtained by Respondent 1 from the ICICI Bank.



3. Respondent 2 filed a reply to the application, in which the allegation of forgery, by him, of the signature of Respondent 1 was categorically denied. It was also asserted that Respondent 2 had complied with the direction, passed by the Court on 26th September, 2014, to provide details of the credit cards issued by the Standard Chartered Bank and the ICICI Bank. As regards the credit card number, Respondent 2 submitted that it had already been pointed out to the Court that the credit card was misplaced and the exact number of the credit card was not, therefore, available.

4. The learned ADJ has, dealing with the application of the petitioner, noted that the petitioner had not placed on record even an iota of evidence to support his contention that Respondent 2 had forged the signature of Respondent 1 on the written statement of Respondent 1. He also noted that Respondent 1 herself had never disputed the said signature either during the trial of the suit or in the reply to the application filed by the petitioner. He has also observed that the signature of Respondent 1 on the written statement was the same as the signature of Respondent 1 as it figured on the vakalatnama filed by Respondent 1, the reply to the Section 340 application of the petitioner as well as the affidavit filed along with the reply to the said application.

5. In these circumstances, the learned ADJ has held that there was no occasion, whatsoever, to initiate Section 340 proceedings against Respondent 1.

6. Apropos the second contention advanced by the petitioner, i.e.



that Respondent 2 was remiss in providing the complete credit card number as directed by the Court *vide* order dated 25th July, 2014, the learned ADJ noted that, on 26th September, 2014, the respondents had pointed out that the said credit card had been misplaced, but, had nonetheless, undertaken to provide details of the account from which Respondent 2 was making payments against the said credit card. The learned ADJ has noted the fact that, in view of the said submission, the Court had, on the said date, i.e. 26th September, 2014, directed Respondent 2 to furnish the account number from which he used to issue cheques towards payment of the credit card. Not only did Respondent 2 do so, he also summoned the witness from the Standard Chartered Bank, who was examined as PW-3. The learned ADJ has noted that, therefore, there was nothing on record to suggest non-compliance of the directions issued by the learned Court *vide* order dated 26th September, 2014 by Respondents 1 and 2.

7. The petitioner, who appears in person, has nothing to state except to submit that, on a visual examination, it is clear that the signature of Respondent 1 on her written statement is fabricated.

8. It is not open for this Court, under exercise of its Article 227 jurisdiction, to enter into such an inquiry. The Court, while exercising jurisdiction under Article 227, is more concerned with the manner in which the Court below has exercised jurisdiction, and less with the correctness of the order under challenge. Article 227 jurisdiction is neither akin to review nor akin to appeal but is purely superintending and supervisory in nature. If the order passed by the Court below does



not reflect any such infirmity as calls for correction by this Court in exercise of its supervisory jurisdiction, no occasion would arise for the Court to interfere under Article 227 of the Constitution of India. One may refer, in this context, to the judgement of the Hon`ble Supreme Court in *Sadhana Ladh v. National Insurance Co. Ltd.*¹ which neatly encapsulates the scope of jurisdiction of High Court under Article 227. The Supreme Court, in para 7 of the report in the said case, held thus:

“7. The supervisory jurisdiction conferred on the High Courts under Article 227 of the Constitution is confined only to see whether an inferior court or tribunal has proceeded within its parameters and not to correct an error apparent on the face of the record, much less of an error of law. In exercising the supervisory power under Article 227 of the Constitution, the High Court does not act as an appellate court or the tribunal. It is also not permissible to a High Court on a petition filed under Article 227 of the Constitution to review or reweigh the evidence upon which the inferior court or tribunal purports to have passed the order or to correct errors of law in the decision.”

9. In the present case, no infirmity, whatsoever, can be said to exist in the manner in which the learned ADJ has dealt with the petitioner’s Section 340 application. On the aspect of the alleged forgery, by Respondent 2, of the signature of Respondent 1 in the written statement filed by Respondent 1, the learned ADJ has correctly noted that (i) the petitioner had not placed any document on record to show that the signature of Respondent 1 on her written statement was not, in fact, her signature, (ii) Respondent 1 herself had never disputed the said signature either in the trial of the suit or in the reply to the Section 340 application of the petitioner, and, (iii) the signature of

¹ (2003) 3 SCC 524



Respondent 1 on the written statement also tallied with her signature on the vakalatnama, the reply to the petitioner's Section 340 application as well as the affidavit filed with the said reply.

10. In these circumstances, the learned ADJ has held that no case existed, whatsoever, for initiation of Section 340 CrPC proceedings against Respondent 1. Clearly, there is no justifiable reason for this Court to interfere with the said decision.

11. Apropos the allegation of default, on the part of Respondent 2, in complying with the order dated 25th July, 2014 and 26th September, 2014, passed by the learned ADJ, such an allegation cannot, in any case, constitute a basis for initiating Section 340 proceedings.

12. Nonetheless, the learned ADJ has dealt with the said allegation on merits and has noted the fact that the directions passed on 25th July, 2014 effectively stood modified/ superseded by the subsequent order dated 26th September, 2014, in which Respondent 2 was only directed to provide the details of his Standard Chartered Bank account from which payments were being made by him. The learned ADJ has noted that the said details were provided by Respondent 2. As such, the learned ADJ has found that there was no want of compliance, by Respondent 2, with the directions issued by this Court.

13. In the opinion of this Court, initiation of Section 340 proceedings in civil cases is essentially an abuse of process, unless clear and cogent reasons exist to do so. The damoclean sword of Section 340 cannot be allowed to idly hang over a litigant's head. Setting into motion of criminal proceedings is not a matter to be taken



lightly. In most cases, this Court has found that the initiation of such proceedings in civil cases are basically with a view to pressurise the opposite party.

14. This, too, appears to be one such case.

15. As such, there is no merit, whatsoever, in this petition, or in the Section 340 petition, initiated by the petitioner before the learned ADJ. No occasion arises for this Court to interfere with the impugned order which is sustained in its entirety.

16. The Court would have been inclined to award costs in this matter. However, as the petitioner appears in person, I refrain from doing so.

MAY 17, 2022
SS

C. HARI SHANKAR, J

