



proceedings under Sections 420/191/193/196/200/463/470 IPC against both the respondents by alleging that in fact respondent- Jasmer Singh was out of country and so application for exemption had been moved on false grounds. The said petition was dismissed by learned trial Magistrate vide order dated 12.02.2018 after observing that it is discretion of the Court to initiate proceedings against any accused under Section 340 Cr.P.C and that it was not expedient in the interest of justice to proceed against the accused. The said order dated 12.02.2018 passed by learned Judicial Magistrate Ist Class, Nakodar has been upheld in appeal by learned Additional Sessions Judge, Jalandhar vide order dated 02.04.2022.

While dismissing the appeal, learned Additional Sessions Judge, Jalandhar relied upon the legal position enunciated by Hon'ble Supreme Court in Santokh Singh Vs. Izhar Hussain, AIR 1973 SC 2190, and Iqbal Singh Marwah and another Vs. Meenakshi Marwah and another, (2005) 4 SCC 370, and then held as under:-

*“12. In the present case, it is case of the appellant that the respondent No.2 has furnished false affidavit mentioning therein that his brother is out of station, whereas he was out of India. In the considered view of this Court, the word “out of station” also covers the situation about the person who is out of India. Moreover, as mentioned above, Hon'ble Supreme Court has held that expediency has to be judged by the Court not taking into account 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. In the present case, in the considered view of this Court, by moving an application with the averments that brother of the respondent is out of station, it does not impacted the administration of justice to such an extent, which would have warranted the Court to proceed under Section 340 Cr.P.C.”*

*13. Accordingly, after perusing the evidence led by the complainant and documents placed on record, this Court is of the considered view that there is no error or perversity in the order under challenge and no interference is warranted. As such, the present appeal filed by the appellant is held to be without any merit and same is hereby dismissed. Appeal file be consigned to the record room. Record of trial Court be sent back.”*

Challenging both the aforesaid orders, it is submitted by the petitioner that respondent No.1 had left the country without seeking permission and his exemption was sought on the wrong ground and so petition under Section 340 Cr.P.C has been wrongly dismissed.

After hearing learned counsel for the petitioner and going through the record, I find no reason to differ with the findings recorded by the Court of learned Additional Sessions Judge, Jalandhar. I do not find any illegality or material irregularity in the impugned order. It has been rightly observed that the word “out of station” also reveals the situation that a person is out of India. Besides, expediency has to be judged by the Court by not taking into account the magnitude of injury

suffered by the person affected but having regard to the effect or impact of such commission of offence upon the administration of justice. It has also been rightly observed that simply because it was mentioned by respondent No.2 i.e. brother of respondent No.1 that respondent No.1 had gone out of station, it did not impact the administration of justice so as to warrant proceeding against him under Section 340 Cr.P.C.

As such, finding no merit in the present petition, the same is hereby dismissed.

April 12, 2023

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(DEEPAK GUPTA)

JUDGE

Whether reasoned/speaking:

Whether reportable:

Yes/No

Yes/No