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CRM-M-25728-2017

+IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25728-2017

Date of Decision: 18.08.2025

Nirmal Singh

...Petitioner

Versus

Gurminder Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Suvir Sidhu, Advocate
for the petitioner.

Mr. Amaninder Preet, Advocate
for the respondent No.1.

Mr. Daldeep Singh, Advocate
for respondent No.2.

ANOOP CHITKARA, J.

1. Seeking initiation of criminal proceedings against the respondents for giving a wrong affidavit in COCP No. 1762 of 2006 by respondent No.1 and a false affidavit in COCP No. 1427 of 2009 by respondent No.2, the petitioner had come up before this Court by invoking the jurisdiction of this Court under Section 340 of the Code of Criminal Procedure, 1973 [CrPC].
2. Petitioner's grievance is that he had joined as Naib Tehsildar in Dera Bassi on 1st June 2006. After two months, i.e., on 8th September 2006, the sale deeds were presented before him for registration. At that time, he was unaware that the High Court of Punjab and Haryana, in CWP No. 4825 of 2006, titled 'Krishan Lal versus State of Punjab and others,' had ordered a status quo regarding the Shamlat land. The order of status quo was passed on 27th March 2006, as per Annexure A-1.
3. The present petitioner had registered the sale deeds despite the order of status quo, as the said order was never brought to the petitioners' notice. The petitioner filed COCP in this Court and in the said COCP, respondents Nos. 1 and 2 allegedly filed incorrect affidavits stating that the status quo order was duly conveyed to the petitioner. However, the order of status quo was passed on 27th March 2006, whereas the petitioner had joined only in June, i.e., on 1st June 2006.

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4. Petitioner claims that because of those affidavits, he had to suffer hugely at the hands of his employer, and also a wrong image was created as if he had violated the orders of this Court, which was factually incorrect. The petitioner's main thrust is that he had joined on 1st of June 2006, whereas the status quo orders were passed before that, i.e., on 27th March 2006, and were never conveyed to him.

5. Respondents No.1 and 2 have filed their separate reply.

6. In reply filed by Gurminder Singh, respondent No.1, who at that time was the concerned Tehsildar, states in paragraph no. 3 that two COCPs have wrongly been clubbed together, and the petition has to be dismissed on this ground itself. However, the arguments were addressed on merit.

7. It has been mentioned in paragraph no.4 of the reply that in the contempt petitions, a query was put by the Coordinate Bench of this Court to the State as to whether the order of status quo was conveyed to the present petitioner or not. In the reply, an inquiry conducted by Hon'ble Justice A.N. Jindal, Retired Judge of this High Court, is mentioned, and the report given by the Hon'ble Judge is attached as Annexure R-1/2. It was mentioned in the said inquiry that the only issue before the inquiry committee was whether the present petitioner, Nirmal Singh, had been made aware by the Registry Clerk of the stay order or not.

8. It would be appropriate to reproduce the relevant portion of inquiry report submitted by Hon'ble Justice A.N. Jindal, Retired Judge of this High Court which reads as follows:

"Furthermore, the issue is only that Nirmal Singh was not made aware by the registry clerk about the stay order.

This issue is not such a complex issue as it is proved on the record that when the stay order was presented to Nirmal Singh on 08.09.2006 then what more evidence was required to prove that the stay order was not brought to his notice. The apathy is that on the day he marked the stay order to Kanungo. He registered the first sale deed on 08.09.2006 itself, thus the charges are wrong."

9. Respondent No. 2, who was the District Collector at that time, has also filed a separate reply. One of the preliminary objections is that the factual assertion in Contempt Petition No. 1427 of 2009 was made by one Sukhwinder Singh, who has not been made a respondent.

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10. Other arguments were addressed on their merits, and it was mentioned that the petitioner had registered sale deeds on 8th September 2006 and 14th September 2006, contrary to the status quo orders passed by this Court on 27th March 2006.

11. Reference has also been made to the charge sheet, and it has been mentioned that in the charge sheet on 24th February 2010, for non-compliance of the order of this Court, i.e., order dated 27th March 2006 in CWP No. 4825 of 2006, the petitioner was exonerated and reinstated after the completion of the inquiry. It has further been mentioned that a Major penalty was imposed upon the petitioner in another CWP, i.e., CWP No. 7139 of 2006, without issuing any charge sheet to him.

12. The analysis of these facts would lead to the following outcome.

13. Petitioner's main grievance is that the order dated 27th March 2006 was never conveyed to him, and when contempt proceedings were initiated in COCP No. 1762 of 2006, a specific query was put, then respondents misled this Court by mentioning that the interim order of status quo was conveyed to the petitioner.

14. It should be appropriate to mention from the short affidavit of Gurminder Singh, respondent No.1, filed in COCP No. 1762 of 2006, in which in paragraph no.1 it was mentioned about the conveying of the interim order of this Court. It is appropriate to extract paragraph no.3 of the said short affidavit, which reads as follows:

"3. That it is further pertinent to assert that as per the records, after the passing of the orders dated 09.05.2006, neither the petitioners in the said writ petition nor any other person had communicated the said order to the office of the Sub-Registrar, Dera Bassi for its further compliance. This is clear from the report of the Registry Clerk who has stated that there is no entry in the Stay Register.

4. That it is only vide letter bearing No 1027 dated 04.09.2006 that the Deputy Commissioner, SAS Nagar, Mohali while annexing therewith copy of the orders passed by this Hon'ble Court, ordered the Sub-Divisional Magistrate, Dera Bassi to take necessary action. Upon receipt of the said letter, the Sub-Divisional Magistrate vide letter bearing No.1105 dated 08.09.2006 sent the same in original to the deponent for immediate compliance.

5. That immediately after the receipt of the said letter, vide his letter bearing No 650/OK dated 14.09.2006, the deponent sent the same to the Field Kanungo, Dera Bassi for taking necessary action and compliance. The Kanungo, Dera Bassi vide his letter bearing No. 208 dated 20.09.2006 sent the same to the Halqa Patwari, Bhankharpur for taking necessary action and entering the rapat regarding stay granted by this Hon'ble Court over the alienation of the property in dispute.

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6. That it is further a matter of record that after the receipt of the aforesaid intimation, the Halga Patwari entered the factum of stay in the Daily Diary Register (Rapat Roznamcha) vide Rapat NO.74 dated 25.09.2006 Copy of the said Rapat containing the aforesaid details is being appended as ANNEXURE A-1 alongwith the present affidavit for the kind perusal of this Hon'ble Court."

15. The entire issue revolves around this affidavit as captioned above. However, in the inquiry committee conducted by a former Judge of this Court, it was also mentioned that the register of stay was misplaced. Thus, disputed questions have come in.

16. This requires a detailed enquiry before the appropriate forum(s), if not already completed, allowing the concerned persons to present their cases. It is not for this Court to also enter the already muddy battle between the officials regarding intentional or unintentional non-compliance with the order of this Court.

17. Given above, it is not a case for this Court to initiate proceedings under Section 340 CrPC for the reason that there is no prima facie satisfaction that any effort was made to mislead this Court.

18. Petitioner's grudge is that the respondents, through wilful distortion of facts and calculated exploitation of the judicial process by filing the wrong affidavits in a query put by this Court in a pending writ petition.

19. However, it is essential to define the scope of S. 340 CrPC, 1973, which is limited solely to assessing whether there is enough prima facie material to initiate proceedings that allegedly violated the integrity of judicial proceedings and caused reputational harm to the petitioner.

20. While it is indeed permissible for a litigant to approach this Court under Section 340 CrPC and now under its new avatar, Section 379 BNSS, 2023, when a party is accused of wilfully and knowingly making false statements under oath before a judicial forum, thereby potentially committing perjury or fabrication, the invocation of such an extraordinary remedy must be based on compelling material. The process under S. 340 CrPC/379 BNSS, 2023, should not be initiated lightly; it is a serious and solemn jurisdiction intended to uphold the sanctity of judicial proceedings and therefore, should not be used as a retaliatory tool.

21. The absence of specific allegations against the respondent persuades this Court not to exercise powers under Section 340 CrPC.

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22. Considering the previous discussion and the unique facts of this case, this Court finds no sufficient reason to proceed against the respondent under Section 340 CrPC. The criteria for such jurisdiction have not been met, so this Court chooses not to exercise its discretion in favour of the petitioner.

23. Consequently, the petition stands **disposed of**. However, it is made abundantly clear that the observations made herein above shall not be used in any other proceedings by or against any of the parties. However, liberty reserved to petitioner as well as respondent to pursue their civil course such as civil writ petition/service appeal. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

18.08.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: NO.