$~78

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

\+ CRL.A. 1465/2025

MR. SURESH KANSAL .....Appellant

Through: Mr. Vibhor Garg and Mr. Keshav Tiwari, Advocates.

versus

MR. SURESH CHAND JAIN .....Respondent

Through: *Appearance not given.*

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **27.10.2025**

CRL.M.A. 31479/2025 (*Exemption from filing certified copies*)

1. Exemption is granted, subject to all just exceptions.

2. The Applicant shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.

3. Accordingly, the application stands disposed of.

CRL.A. 1465/2025

4. The Petitioner is the defendant in a money-recovery suit instituted by the Respondent/Plaintiff. The suit stands decreed against the Petitioner and the decree is under challenge in a first appeal pending before this Court, in which no interim stay has been granted.

5. The present proceedings arise from a distinct grievance: the Trial Court's order dated 31st July, 2025, rejecting the Petitioner's application

under Section 340 of the Code of Criminal Procedure, 1973[1]. That rejection is assailed before this Court under Section 341 CrPC.

6. The Petitioner's challenge is two-fold. First, it is argued that the Respondent/plaintiff wilfully deposed falsely on oath about lending money "only" to the defendant, and later, in cross-examination, admitted having given a loan to "Swami Mahaveer Builder". It is pointed out that the Respondent initially deposed:

> *"I have not given money on loan to anyone except defendant no. 1"*

but later admitted during cross-examination:

> *"I know Swami Mahaveer Builder. I have given loan to Swami Mahaveer Builder,".*

7. Secondly, it is urged that the Respondent's affidavit under Section 65B of the Indian Evidence Act, 1872[2] contained a false assertion that he had himself downloaded the TDS certificate/Form 26AS from the Income-Tax portal, whereas, in cross-examination, he stated he did not know the contents of the affidavit and that the printouts were taken by his chartered accountant. To this effect it is highlighted that during cross-examination, Respondent admitted:

> *"I do not know the contents of Ex. PW- 1 /B. I have only signed at the instructions of my counsel. I also do not know the meaning of the Ex. PW- 1 / B"*

and further stated:

> *"the print out of the certificates have been taken by my CA, Lunavat and Co"*

8. On that foundation, the Petitioner submits that offences under Chapter

[1] "CrPC"
[2] "IEA"

XI of the Indian Penal Code, 1860[3] (of false evidence etc.) appear to have been committed in relation to the judicial proceedings and that a complaint ought to have been directed under Section 340 CrPC.

9. The Court has considered the aforenoted contentions. The limited issue before this Court is whether the impugned order dated 31st July, 2025 warrants interference, dismissing the Petitioner's application under Section 340 CrPC, as follows:

> *8. The defendant/applicant has filed the instant application on the ground of contradiction in the cross-examination of PW1 / plaintiff. Before proceeding further with the present application, the court deems it fit to discuss here the provisions as enumerated under section 340 CrPC and section 193 and 205 IPC.*
>
> *XXXX XXXX XXXX*
>
> *9. So after going through the provisions as enumerated under section 340 of Cr. PC. It is clear that proceedings under section 340 of Cr.PC can be invoked if the offence as mentioned under section 195 (1) clause (b) of CrPC appears to have been committed. Section 195 (1)(b)(i) of CrPC provides the offences as enumerated under section 193 to 196, 199, 200, 205, 211 and 228 of IPC. The section 193 to section 211 of IPC comes under chapter XI under the headings of the false evidence and offences against public justice. As far as the offences as mentioned under section 195 (1)(b)(ii) of Cr. PC are concerned, same pertains to commission of the offence, with respect to the documents produced or given in evidence. However, in the present application, there is admittedly nothing to substantiate that the plaintiff / PW1 has given any false evidence. The plaintiff / PW1 has not placed on record any document which is false, fabricated and forged. In other words, the present matter in hand docs not pertains to forgery with respect to any documents accordingly even the offence as enumerated under section 195 (l)(b)(ii) have not been committed.*

10. The governing principles are settled. Proceedings under Section 340 CrPC are not a matter of course. The Court must first be satisfied that an offence under Section 195(1)(b) CrPC appears to have been committed, and

---

[3] "IPC"

further that it is expedient in the interests of justice to make a complaint, having regard to the overall administration of justice. The Supreme Court in ***Iqbal Singh Marwah v. Meenakshi Marwah***[4], underscored that the Section 340 CrPC is to be invoked sparingly and only when the judicial process itself is subverted by deliberate falsehood or fabrication of a material kind, and when prosecution is expedient to preserve the purity of the proceeding. This provision is not a collateral device to re-litigate issues or to gain leverage.

11. Tested on that touchstone, neither ground advanced by the Petitioner crosses the threshold. Whether the answers given by the witness are truly irreconcilable, or only imprecise, is a matter for appreciation in the civil appeal. Mere contradictions, embellishments or inaccuracies in testimony, howsoever useful they may be for impeaching credit or for appellate re-appreciation, do not by themselves warrant the launch of perjury proceedings.[5] Crucially, materiality is missing: the fact that the Respondent/Plaintiff may have lent money to a third-party bears no direct nexus to the cause of action against the Defendant in the suit, nor to the core ingredients of the decree passed. Without a clear showing of wilful intent to mislead on a material point, Section 340 is not attracted.

12. The inconsistency i.e., whether the deponent personally downloaded the 26AS form or whether the chartered accountant printed it, concerns the mechanics of proving an electronic record. Such a defect, if any, concerns admissibility/weight, and does not, without more, constitute deliberate false evidence within Sections 191–193 IPC.

---

[4] (2005) 4 SCC 370.

[5] See ***Chajoo Ram v. Radhey Shyam*** (1971) 1 SCC 774; ***Pritish v. State of Maharashtra*** (2002) 1 SCC

13. It also bears emphasis that the appropriate forum for redressal of evidentiary grievances is the pending first appeal against the decree, where the entire record is open to scrutiny and any infirmity in proof, weight, or credibility can be urged. To simultaneously prosecute the opposing party for perjury on the same set of assertions risks converting Section 340 into a pressure tactic. In the result, no case for interference under Section 341 CrPC is made out. The impugned order discloses no perversity, error, or failure to apply the correct test.

14. Accordingly, the appeal fails and is dismissed with a cost of INR 10,000/-, payable to the Delhi High Court Legal Services Committee within a period of four weeks from today.

SANJEEV NARULA, J

OCTOBER 27, 2025/MK

253.