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

+ **CRL.M.C. 2865/2012**

AJIT SINGH

.....Petitioner

Through: *Appearance not given.*

versus

HARDEV SINGH & ANR.

.....Respondents

Through: **Mr. S.K. Singh, Advocate for R-2.**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

01.05.2025

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1. The present petition under Section 482 of the Code of Criminal Procedure, 1973¹, seeks quashing of order dated 27th September, 2011 passed by the Additional Sessions Judge-02, Patiala House Courts, New Delhi in Crl. Revision No. 11/11. By the said order, the Revisional Court dismissed the challenge to the Metropolitan Magistrate's order dated 23rd January, 2010, passed in Complaint Case No. 353/1/09 titled **Ajit Singh v. Hardev Singh & Ors.**, whereby the Magistrate declined to summon the accused and dismissed the complaint filed under Sections 465, 466, 467 read with Section 420 of the Indian Penal Code, 1860².

2. The impugned complaint pertained to an alleged forgery of a joint undertaking submitted before the Supreme Court of India in proceedings arising from a long-standing tenancy dispute. The Magistrate declined to

¹ "Cr.P.C."



take cognizance, primarily in view of the statutory bar under Section 195(1)(b)(ii) Cr.P.C. The Revisional Court concurred with this reasoning and affirmed the Magistrate's decision.

3. The factual background is as follows:

3.1 The dispute traces back to a tenancy litigation where both the Petitioners as well as the Respondent were parties. This case reached the Supreme Court in Civil Appeal No. 7922/2003 and was decided *vide* final judgment dated 19th September, 2003, whereby the Supreme Court dismissed the appeal and directed the Appellants, including the present Petitioner and Respondents, to vacate the premises within a period of three months, subject to furnishing an undertaking that they alone occupied the property. The relevant text of the reads as follows:

“In our view, there is no infirmity either in the impugned order or in the order of Executing court. The appellants should have taken steps to see that they Were resettled on some other surplus land. The Appellants not having taken any steps, to safeguard their rights, for the last 30 years, cannot claim that due to their own inaction, they should not be evicted. Accordingly. this appeal stands dismissed with no order as to costs.

We, however, grant to the appellants three months, time to vacate i.e. upto 31st December, 2003, provided that the appellants file in this Court, within one week from today, the usual undertaking to vacate wherein they Will also undertake that apart from them there is no other person on the land.

We pass no orders on the impleadment Application. However, it will be open to the power of Attorney holder to take possession of the land from the Appellants, if in law he is entitled to do so.”

3.2 Pursuant to the said direction, joint undertakings were submitted on behalf of the sons of late Sh. Sunder Singh, namely, Surjeet Singh, Hardev Singh [the Petitioner and the Respondents]. Although the undertaking bore the names of all three, the accompanying affidavit was executed only by

² “IPC”



Hardev Singh.

3.3 The Petitioner alleges that the undertaking filed before the Supreme Court on 7th October, 2003 was forged insofar as it contained his purported signature without his consent or knowledge. However, the Supreme Court accepted the undertaking and granted time-bound protection from eviction.

3.4 Subsequently, the Petitioner moved an application before the Supreme Court [I.A. Nos. 6-9/2006 in Civil Appeal No. 7922/2003] seeking action against the Respondents for having forged the undertaking. The said application was dismissed by the Supreme Court *vide* order dated 19th October, 2006.

3.5. Thereafter, the Petitioner filed a private complaint before the Magistrate invoking Sections 465, 466, 467 read with Section 420 IPC, alleging forgery of a judicial document. The Magistrate dismissed the complaint, holding that such a prosecution was barred by Section 195(1)(b)(ii) Cr.P.C. The Revisional Court affirmed this decision, giving rise to the present challenge under Section 482 Cr.P.C.

4. Counsel for the Petitioner contends that the Courts below failed to appreciate that the alleged act of forgery preceded the filing of the undertaking in Court. It is submitted that the embargo under Section 195(1)(b)(ii) does not apply to such cases. Reliance is placed on the judgment of the Supreme Court in ***Iqbal Singh Marwaha v. Meenakshi Marwaha***³ where the Court held that prosecution for forgery committed prior to the document being filed in Court is not barred by Section 195(1)(b)(ii). The relevant portion reads:

“25. An enlarged interpretation to Section 195(1)(b)(ii), whereby the bar

³ (2005) 4 SCC 370



created by the said provision would also operate where after commission of an act of forgery the document is subsequently produced in court, is capable of great misuse. As pointed out in *Sachida Nand Singh* [(1998) 2 SCC 493: 1998 SCC (Cri) 660] after preparing a forged document or committing an act of forgery, a person may manage to get a proceeding instituted in any civil, criminal or revenue court, either by himself or through someone set up by him and simply file the document in the said proceeding. He would thus be protected from prosecution, either at the instance of a private party or the police until the court, where the document has been filed, itself chooses to file a complaint. The litigation may be a prolonged one due to which the actual trial of such a person may be delayed indefinitely. Such an interpretation would be highly detrimental to the interest of the society at large.

26. Judicial notice can be taken of the fact that the courts are normally reluctant to direct filing of a criminal complaint and such a course is rarely adopted. It will not be fair and proper to give an interpretation which leads to a situation where a person alleged to have committed an offence of the type enumerated in clause (b)(ii) is either not placed for trial on account of non-filing of a complaint or if a complaint is filed, the same does not come to its logical end. Judging from such an angle will be in consonance with the principle that an unworkable or impracticable result should be avoided. In *Statutory Interpretation* by Francis Bennion (3rd Edn.), para 313, the principle has been stated in the following manner: “The court seeks to avoid a construction of an enactment that produces an unworkable or impracticable result, since this is unlikely to have been intended by Parliament. Sometimes, however, there are overriding reasons for applying such a construction, for example, where it appears that Parliament really intended it or the literal meaning is too strong.

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33. In view of the discussion made above, we are of the opinion that *Sachida Nand Singh* [(1998) 2 SCC 493 : 1998 SCC (Cri) 660] has been correctly decided and the view taken therein is the correct view. Section 195(1)(b)(ii) CrPC would be attracted only when the offences enumerated in the said provision have been committed with respect to a document after it has been produced or given in evidence in a proceeding in any court i.e. during the time when the document was in custodia legis.”

5. Heard. The principal legal contention advanced by the Petitioner rests on the authoritative pronouncement in ***Iqbal Singh Marwah v. Meenakshi Marwah***, wherein the Supreme Court held that the bar under Section 195(1)(b)(ii) Cr.P.C. would apply only if the offence of forgery is committed after the document is produced in or given in evidence before a



court, i.e., when it is in *custodia legis*. In contrast, if the forgery is alleged to have occurred before the document entered the court's record, a private complaint is not barred. Relying on this interpretation, counsel for the Petitioner submits that since the purported forgery in the present case took place prior to the filing of the undertaking before the Supreme Court, the embargo under Section 195 Cr.P.C. had no application, and both the Magistrate and Revisional Court erred in declining to take cognizance of the offence on that basis.

6. While the legal proposition in ***Iqbal Singh Marwah*** is well-settled and correctly relied upon by the Petitioner, its application must be assessed in light of the factual matrix of the present case. As noted earlier, the Petitioner had already agitated the very same grievance before the Supreme Court by filing I.A. Nos. 6-9/2006 in Civil Appeal No. 7922/2003, alleging that the undertaking was forged. The Supreme Court, after considering the matter, declined to take action on those allegations. The undertakings were accepted and formed the basis for compliance with the Court's directions. The order of the Supreme Court has attained finality and was duly implemented, leading to the eviction process being carried out accordingly.

7. In such circumstances, allowing the Petitioner to prosecute a private complaint would amount to a collateral challenge to the very undertaking that was accepted by the Supreme Court and implemented. It is well-settled that a party cannot be permitted to bypass or re-litigate issues already considered by the Apex Court, under the guise of a criminal prosecution⁴. Permitting such a course would subvert the principle of finality and run

⁴ ***Naresh Kumar v. State of Karnataka***, Criminal Appeal arising out of SLP (Crl) No. 1570 of 2021, judgment dated 12th March, 2024



contrary to the doctrine of judicial discipline.

8. The High Court, in exercising its inherent jurisdiction under Section 482 Cr.P.C., is bound to ensure that criminal proceedings are not permitted to degenerate into tools of harassment or to reopen settled disputes⁵. One of the recognised categories warranting quashing of criminal proceedings is where the allegations, even if taken at face value, do not disclose the commission of any cognizable offence or are manifestly attended with *mala fides*.

9. In the present case, since the Apex court has considered and rejected the Applicant's plea of forgery, it would be wholly inappropriate to permit the Trial court to revisit that issue through private prosecution. The bar may not arise under Section 195(1)(b)(ii) Cr.P.C. strictly on jurisdictional grounds, but the exercise of inherent powers must still be guided by the broader ends of justice and judicial propriety.

10. Consequently, this Court finds no infirmity in the concurrent findings of the Magistrate and the Revisional Court. No case is made out for interference under Section 482 Cr.P.C.

11. The petition is accordingly dismissed.

SANJEEV NARULA, J

MAY 1, 2025

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⁵ *Randheer Singh v. State of U.P.* (2021) 14 SCC 626