

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 6788 OF 2025

Dastagir Ismail Kazi

...Petitioner

Versus

State Of Maharashtra And Ors

...Respondents

Ms. Arti Bajpai, for the Petitioner.

Mr. D. J. Haldankar, APP for the Respondent No.1-State.

CORAM: N. J. JAMADAR, J.

DATED: 26th MARCH, 2026

PC:-

1. Heard the learned Counsel for the parties.
2. The challenge in this petition is to an order dated 9th October, 2025 passed by the President, Maharashtra Slum Areas (I.C.&R.) Tribunal, Mumbai, whereby an application in the nature of review as well as to initiate action under Section 340 of the Code of Criminal Procedure, 1973 ("the Code") for alleged forgery by using the stamp having the word "Limited" in the name of "Ekta Complex SRA CHS Proposed Limited" came to be rejected.
3. The learned President of the Tribunal was of the view that the action under Section 340 of the Code was not warranted.

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4. An action under Section 340 of the Code is warranted when the Court finds that it would be expedient in the interest of justice to initiate such action. The use of the stamp with the word “Limited”, even if taken at par, would not give rise to the commission of the offences for which the Court would find it expedient in the interest of justice to initiate action under Section 340 of the Code.

5. A useful reference in this context can be made to the judgment of the Supreme Court in the case of ***Prithish vs. State of Maharashtra and ors.***¹ wherein the contours of the powers under Section 340 of the Code were expounded as under :-

“9. Reading of the sub-section makes it clear that the hub of this provision is formation of an opinion by the court (before which proceedings were to be held) that it is expedient in the interest of justice that an inquiry should be made into an offence which appears to have been committed. In order to form such opinion the court is empowered to hold a preliminary inquiry. It is not peremptory that such preliminary inquiry should be held. Even without such preliminary inquiry the court can form such an opinion when it appears to the court that an offence has been committed in relation to a proceeding in that court. It is important to notice that even when the court forms such an opinion it is not mandatory that the court should make a complaint.

1 2002 (1) SCC 253.

This sub-section has conferred a power on the court to do so. It does not mean that the court should, as a matter of course, make a complaint. But once the court decides to do so, then the court should make a finding to the effect that on the fact situation it is expedient in the interest of justice that the offence should further be probed into. If the court finds it necessary to conduct a preliminary inquiry to reach such a finding it is always open to the court to do so, though absence of any such preliminary inquiry would not vitiate a finding reached by the court regarding its opinion. It should again be remembered that the preliminary inquiry contemplated in the sub-section is not for finding whether any particular person is guilty or not. Far from that, the purpose of preliminary inquiry, even if the court opts to conduct it, is only to decide whether it is expedient in the interest of justice to inquire into the offence which appears to have been committed.

6. As the petition is devoid of substance, the petition stands dismissed.

[N. J. JAMADAR, J.]