



CRA-S-577-SB-2016 (O&M) -1-

248 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRA-S-577-SB-2016 (O&M)  
Reserved On: 01.05.2025  
Pronounced on: 16.05.2025

Varun Nanda

.....Appellant

Versus

Kulwant Singh Sub Inspector and Others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE H.S. GREWAL**

**Present:** Mr. Jatinderpal Singh, Advocate  
for the appellant.

Mr. Amandeep Singh Samra, AAG, Punjab.

Ms. Monika Jalota, Advocate for respondent Nos.1 to 4.  
(Legal Aid Counsel)

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**H.S. GREWAL J. (Oral)**

The appellant has challenged the impugned order dated 21.10.2015 passed by the learned Additional Sessions Judge, Jalandhar whereby the application under Section 340 of Criminal Procedure Code for initiating proceedings against the respondents for offence committed by them under the provisions of Section 195 Cr.P.C. in relation to proceedings in the Sessions case titled as 'State Vs. Mandeep Nanda and Others' i.e. FIR No.386 dated 4.11.1998 under Sections 302, 307, 148, 149 IPC, 1860 read with Sections 25, 27, 54, 59 of Arms Act registered at Police Station Sadar Jalandhar, has been dismissed.

2. Learned counsel for the appellant submits that the appellant was falsely implicated by the respondents in a false case relating to the alleged murder of one Jagir Singh son of Amar Singh. The murder was allegedly committed on 04.11.1998 and an FIR no. 386 dated 4.11.1998 under Sections



302, 307, 149 and 148 IPC and Sections 25, 27, 54, 59 of the Arms Act, 1959 was registered at Police Station Sadar, Jalandhar on the statement of respondent No.2.-Avtar Singh. The trial Court vide judgment dated 04.04.2001 convicted the appellant alongwith his co-accused and sentenced him to undergo imprisonment for life. In the said judgement, it was observed in para 21 and 22 that respondent No.3 was a planted witness and was introduced subsequently by the prosecution. The Court also observed that the recoveries were planted on accused-Mandeep Nanda and Varun Nanda and the evidence was fabricated by respondent No.1. PW-5 Sarbjeet Singh was also disbelieved while holding that he was never present at the spot and was introduced later.

3. Against judgment of conviction and the order of sentence dated 04.04.2001 passed by learned Additional Sessions Judge Jalandhar, an appeal bearing Criminal Appeal No.199-DB-2001 was preferred which was decided on 28.07.2009 by Hon'ble Division Bench of this Court and acquitted the appellant of all charges framed against him while observing that the witness-Sarabjit Singh possibly, to have fabricated injuries on his person in connivance with the police. Therefore learned counsel for the appellant states that all the respondents were liable to be prosecuted and punished under the provisions of law under Sections 191, 192, 194 and 196 of IPC. Thereafter, the appellant moved an application under Section 340 Cr.P.C. before the learned Additional Sessions Judge, Jalandhar which was dismissed vide the impugned order dated 21.10.2015.

4. Learned counsel appearing for the respondents has stated that at certain places in the order passed by the trial Court concerned, certain observations while passing the judgment have been made by the learned Judge, however, it has resulted in conviction of the appellant alongwith his co-accused. It is argued that decision of the appellate Court supersedes that of the trial Court.



The trial Court judgment is considered to be merged, meaning thereby the appellate Court's decision becomes the operative order while referring to the doctrine of merger.

5. Moreover, this Court has acquitted the appellant and other accused by extending the benefit of private defence to the accused. It is also argued that in the proceedings under Section 340, Cr.P.C. firstly the material produced before the Court must prima facie establish a case for the complaint for the purpose of enquiry into an offence under Sections 195(b)(i) Cr.P.C.; and secondly, enquiry should be made into the alleged offence. For this purpose, reliance has been placed on the judgment of Hon'ble the Supreme Court in case "**Iqbal Singh Marwaha and Another Vs. Meenakshi Marwaha and Another**", 2005(4) SCC 370 and the relevant portion of the judgment is reproduced as under:

*"18. In view of the language used in Section 340 Cr.P.C. the Court is not bound to make a complaint regarding commission of an offence referred to in Section 195(1)(b), as the Section is conditioned by the words "Court is of opinion that it is expedient in the interest of justice." This shows that such a course will be adopted only if the interest of justice requires and not in every case. Before filing of the complaint, the Court may hold a preliminary enquiry and record a finding to the effect that it is expedient in the interests of justice that enquiry should be made into any of the offences referred to in Section 195(i)(b). This expediency will normally be judged by the Court by weighing not 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. It is possible that such forged document or forgery may cause a very serious or substantial injury to a person in the sense that it may deprive him of a very valuable property or status or the like, but such document may be just a piece of evidence produced or given in evidence in Court, where voluminous evidence may have been adduced and the effect of such piece of evidence on the broad concept of administration of justice may be minimal. In such circumstances, the Court may not consider it expedient in the interest of justice to make a complaint. The broad view of clause (b)(ii), as canvassed*



*by learned counsel for the appellants, would render the victim of such forgery or forged document remediless. Any interpretation which leads to a situation where a victim of a crime is rendered remediless, has to be discarded.”*

6. Therefore, the appellant cannot pick and choose certain observations made by the trial Court and by the High Court and further, make it a basis for filing an application under Section 340 Cr.P.C.

7. In view of above, this Court finds no grounds to interfere with the decision rendered vide impugned order dated 21.10.2015 passed by the learned Additional Sessions Judge, Jalandhar.

8. Accordingly, the present appeal is hereby dismissed.

**16.05.2025**

*Sonia Puri*

**(H.S. GREWAL)  
JUDGE**

*Whether speaking/ reasoned* : Yes / No  
*Whether reportable* : Yes / No