



alleged that on 10.03.2011, father of the petitioner was not present before Sub-Registrar, Chandigarh for completing the deal and the respondent was ready with the balance sale consideration of Rs.45,00,000/- on 10.03.2011 in the office of Sub-Registrar and also marked his presence through affidavit dated 10.03.2011, which was duly attested by Sub-Registrar, Chandigarh. The respondent filed a suit for symbolic possession and specific performance of agreement to sell dated 10.09.2010, which was decreed in favour of respondent vide judgment and decree dated 04.01.2016 passed by the Court of Civil Judge, (Senior Division) Chandigarh. During the pendency of the suit, Prithipal Singh had died and the petitioner was ordered to be impleaded as defendant, the only LR of Prithipal Singh. Later on, Sukhraj Kaur was also impleaded as the defendant in the array of the parties being another LR of Prithipal Singh. It also requires mention that an appeal was also filed by the present petitioner before the Court of District Judge, Chandigarh and as per the judgment dated 02.03.2019, the appeal was also ordered to be dismissed.

3. Now, the application under Section 340 read with Section 195 Cr.P.C was filed by the petitioner before the Court of Civil Judge (Senior Division), Chandigarh by alleging that the respondent had obtained the judgment and decree dated 04.01.2016 by filing false affidavits dated 10.03.2011, 03.01.2012 and 13.03.2013 Ex.PA before the Trial Court and a fraud has been committed by the respondent with the petitioner as well as the Trial Court. It was wrongly mentioned by the respondent that he had made arrangement of balance payment of Rs.45,00,000/-.

4. Ultimately, vide the impugned judgment dated 03.08.2019 (Annexure P-10) the Court of Civil Judge (Senior Division), Chandigarh



dismissed the application under Section 340 of Cr.P.C read with 195 Cr.P.C. The petitioner filed an appeal before the Court of Additional Sessions Judge, Chandigarh and vide the impugned judgment dated 16.04.2025 (Annexure P-12), the appeal was also dismissed.

5. Learned counsel for the petitioner has vehemently argued that the respondent had obtained the judgment and decree dated 04.01.2016 by filing the false affidavits and a fraud has been committed by the respondent not only with the petitioner, but with the Trial Court as well. He had wrongly stated that he had made arrangements regarding the balance payment of Rs.45,00,000/-. Even, the alleged sanction letter dated 09.03.2011, which was allegedly issued by Dhan Laxmi Bank, was not signed by any authorised signatory and it was wrongly exhibited as Ex.P-8, in order to get a favourable order from the Trial Court. Still further, the petitioner had examined Gurudev VL, Branch Manager, Dhan Laxmi Bank, Sector 17-B, Chandigarh as CW-1, who clearly deposed that as per the record, Ex.C-1 was not issued by Dhan Laxmi Bank nor it was signed by any authorised signatory nor the same was issued to Vikas Kalia, Sanjeev Kalia and Tirath Ram Kalia. The petitioner had appeared as CW-2 and had led sufficient evidence to show that the decree was obtained by producing forged and fabricated affidavits. Learned counsel further submits that the Trial Court dismissed the application mainly on the ground that the original file of civil suit No.5 of 04.01.2012, titled as **“Vikas Kalia Vs. Prithi Pal Singh”** was never summoned and the sanction letter Ex. C-1 had not been relied upon being the uncertified copy. However, the Appellate Court had summoned the original file of the case decided by the Civil Court and still a finding had been wrongly recorded by the Appellate Court. Still further, the alleged sanction letter Ex.C-1



was relied upon in order to give a finding in the decree and judgment dated 04.01.2016 that respondent was ready and willing to perform his part of the agreement, which was incorrect. Gurudev VL, Branch Manager of Dhan Laxmi Bank, who clearly deposed that no sanction letter was ever issued by the bank to any customer nor it contained the signatures of any authorised signatory neither it was issued to Vikas Kalia, Sanjeev Kalia and Tirath Ram Kalia. Thus, the Courts had committed grave error in not ordering the enquiry, under Section 340 Cr.P.C against the respondent and while passing impugned orders, the evidence led by the petitioner was completely overlooked.

6. I have heard learned counsel for the petitioner and perused the record carefully.

7. Section 195 Cr.P.C provides for prosecution for contempt of lawful authority of public servants, for offences against public justice and other related offence, whereas, Section 340 Cr.P.C prescribes the procedure in the cases, which are mentioned in Section 195 Cr.P.C.

8. For the facility of reference, Section 195 Cr.P.C as well as Section 340 Cr.P.C are reproduced below:-

Section 195 Cr.P.C., reads as under:-

“195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.

(1) No Court shall take cognizance-

(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860), or

(ii) of any abetment of, or attempt to commit, such offence, or

(iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;



(b) (i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or
(ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or
(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii), except on the complaint in writing of that Court, or by such officer of the court as that court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.

(2) Where a complaint has been made by a public servant under clause (a) of sub-section (1) any authority to which he is administratively subordinate may order the withdrawal of the complaint and send a copy of such order to the Court; and upon its receipt by the Court, no further proceedings shall be taken on the complaint:

Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

(3) In clause (b) of sub- section (1), the term "Court" means a Civil, Revenue or Criminal Court, and includes a tribunal constituted by or under a Central, Provincial or State Act if declared by that Act to be a Court for the purposes of this section.

(4) For the purposes of clause (b) of sub-section (1), a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the principal Court having ordinary original civil jurisdiction within whose local jurisdiction such Civil Court in situate:

Provided that-

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;

(b) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.”



Section 340 Cr.P.C., reads as under:-

340. Procedure in cases mentioned in section 195.- (1)When, upon an application made to it in this behalf or otherwise, any Court is of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in clause (b) of sub- section (1) of section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary,-

(a)record a finding to that effect;

(b)make a complaint thereof in writing;

(c)send it to a Magistrate of the first class having jurisdiction;

(d)take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non- bailable and the Court thinks it necessary so to do, send the accused in custody to such Magistrate; and

(e)bind over any person to appear and give evidence before such Magistrate.

(2) The power conferred on a Court by sub- section (1) in respect of an offence may, in any case where that Court has neither made a complaint under sub- section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of sub- section (4) of section 195.

(3) A complaint made under this section shall be signed,-

(a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;

(b) in any other case, by the presiding officer of the Court or by such officer of the Court as the Court may authorise in writing in this behalf

(4) In this section, " Court" has the same meaning as in section 195.

9. The Hon'ble Supreme Court has held in the matter of **Aarish Asgar Qureshi Vs. Fareed Ahmed Qureshi & another, 2019(2) R.C.R. (Criminal), 321**, that the enquiry under Section 340 Cr.P.C should be initiated only in very exceptional circumstances and not as a matter of routine. The Hon'ble Supreme Court held as under:-

“8) Similarly in **Chandrapal Singh and Others vs. Maharaj Singh and Another, (1982) 1 SCC 466**, this Court, in para 14, stated:



“14. That leaves for our consideration the alleged offence under Section 199. Section 199 provides punishment for making a false statement in a declaration which is by law receivable in evidence. We will assume that the affidavits filed in a proceeding for allotment of premises before the Rent Control Officer are receivable as evidence. It is complained that certain averments in these affidavits are false though no specific averment is singled out for this purpose in the complaint. When it is alleged that a false statement has been made in a declaration which is receivable as evidence in any Court of Justice or before any public servant or other person, the statement alleged to be false has to be set out and its alleged falsity with reference to the truth found in some document has to be referred to pointing out that the two situations cannot coexist, both being attributable to the same person and, therefore, one to his knowledge must be false. Rival contentions set out in affidavits accepted or rejected by courts with reference to onus probandi do not furnish foundation for a charge under Section 199, I.P.C. To illustrate the point, appellant 1 Chandrapal Singh alleged that he was in possession of one room forming part of premises No. 385/2. The learned Additional District Judge after scrutinising all rival affidavits did not accept this contention. It thereby does not become false. The only inference is that the statement made by Chandrapal Singh did not inspire confidence looking to other relevant evidence in the case. Acceptance or rejection of evidence by itself is not a sufficient yardstick to dub the one rejected as false. Falsity can be alleged when truth stands out glaringly and to the knowledge of the person who is making the false statement. Day in and day out, in courts averments made by one set of witnesses are accepted and the counter averments are rejected. If in all such cases complaints under Section 199, I.P.C. are to be filed not only there will open up floodgates of litigation but it would unquestionably be an abuse of the process of the Court. The learned Counsel for the respondents told us that a



tendency to perjure is very much on the increase and unless by firm action courts do not put their foot down heavily upon such persons the whole judicial process would come to ridicule. We see some force in the submission but it is equally true that chagrined and frustrated litigants should not be permitted to give vent to their frustration by cheaply invoking jurisdiction of the criminal court. Complainant herein is an Advocate. He lost in both courts in the rent control proceedings and has now rushed to the criminal court. This itself speaks volumes. Add to this the fact that another suit between the parties was pending from 1975. The conclusion is inescapable that invoking the jurisdiction of the criminal court in this background is an abuse of the process of law and the High Court rather glossed over this important fact while declining to exercise its power under Section 482, Cr. P.C.”

9) Both these judgments were referred to and relied upon with approval in *R.S. Sujatha vs. State of Karnataka and Others, (2011) 5 SCC 689 (at paras 15 & 16)*. This Court, after setting down the law laid down in these two judgments concluded:

“18. Thus, from the above, it is evident that the inquiry/contempt proceedings should be initiated by the court in exceptional circumstances where the court is of the opinion that perjury has been committed by a party deliberately to have some beneficial order from the court. There must be grounds of a nature higher than mere surmise or suspicion for initiating such proceedings. There must be distinct evidence of the commission of an offence by such a person as mere suspicion cannot bring home the charge of perjury. More so, the court has also to determine as on facts, whether it is expedient in the interest of justice to inquire into the offence which appears to have been committed.”

10. Still further, the Hon’ble Supreme Court has held in the matter of ***Amarsang Nathaji as Himself and as Karta and Manager Versus Hardik***



Harshadbhai Patel and others, 2017(1) R.C.R. (Criminal) 92, held as under:-

“7. The mere fact that a person has made a contradictory statement in a judicial proceeding is not by itself always sufficient to justify a prosecution under Sections 199 and 200 of the Indian Penal Code (45 of 1860) (hereinafter referred to as “the IPC”); but it must be shown that the defendant has intentionally given a false statement at any stage of the judicial proceedings or fabricated false evidence for the purpose of using the same at any stage of the judicial proceedings. Even after the above position has emerged also, still the court has to form an opinion that it is expedient in the interests of justice to initiate an inquiry into the offences of false evidence and offences against public justice and more specifically referred in Section 340(1) of the CrPC, having regard to the overall factual matrix as well as the probable consequences of such a prosecution. (See *K.T.M.S. Mohd. and Another v. Union of India*, 1992(2) R.C.R. (Criminal) 398: (1992) 3 SCC 178). The court must be satisfied that such an inquiry is required in the interests of justice and appropriate in the facts of the case.

8. In the process of formation of opinion by the court that it is expedient in the interests of justice that an inquiry should be made into, the requirement should only be to have a prima facie satisfaction of the offence which appears to have been committed. It is open to the court to hold a preliminary inquiry though it is not mandatory. In case, the court is otherwise in a position to form such an opinion, that it appears to the court that an offence as referred to under Section 340 of the CrPC has been committed, the court may dispense with the preliminary inquiry. Even after forming an opinion as to the offence which appears to have been committed also, it is not mandatory that a complaint should be filed as a matter of course. (See *Prithvi v. State of Maharashtra and Others*, 2002(1) RCR (Criminal) 92: (2002) 1 SCC 253).

9. In ***Iqbal Singh Marwah and Another v. Meenakshi Marwah***



and another, 2005(2) RCR (Criminal) 178: (2005) 4 SCC 370 a Constitution Bench of this Court has gone into the scope of Section 340 of the CrPC. Paragraph-23 deals with the relevant consideration:

“23. In view of the language used in Section 340 CrPC 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 interests 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(1)(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.”

11. Still further, the Hon’ble Supreme Court has held in the matter of **“Chandrapal Singh & others Versus Mahraj Singh, 1982 AIR (Supreme Court) 1238**, as follows:-

“14. That leaves for our consideration the alleged



offence under Section 199. Section 199 provides punishment for making a false statement in a declaration which is by law receivable in evidence. We will assume that the affidavits filed in a proceeding for allotment of premises before the Rent Control Officer are receivable as evidence. It is complained that certain averments in these affidavits are false though no specific averment is singled out for this purpose in the complaint. When it is alleged that a false statement has been made in a declaration which is receivable as evidence in any Court of Justice or before any public servant or other person, the statement alleged to be false has to be set out and its alleged falsity with reference to the truth found in some document has to be referred to pointing out that the two situations cannot co-exist, both being attributable to the same person and, therefore, one to his knowledge must be false. Rival contentions set out in affidavits accepted or rejected by courts with reference to onus probandi do not furnish foundation for a charge under Section 199, I.P.C. To illustrate the point, appellant 1 Chandrapal Singh alleged that he was in possession of one room forming part of premises No. 385/2. The learned Additional District Judge after scrutinising all rival affidavits did not accept this contention. It thereby does not become false. The only inference is that the statement made by Chandrapal Singh did not inspire confidence looking to other relevant evidence in the case. Acceptance or rejection of evidence by itself is not a sufficient yardstick to dub the one rejected as false. Falsity can be alleged when truth stands out glaringly and to the knowledge of the person who is making the false statement. Day in and day out, in courts averments made by one set of witnesses are accepted and the counter averments are rejected. If in all such cases complaints under Section 199, I.P.C. are to be filed not only there will open up floodgates of litigation but it would unquestionably be an abuse of the process of the Court. The learned Counsel for the respondent told us that a tendency to perjure is very much on the increase and



unless by firm action courts do not put their foot down heavily upon such persons the whole judicial process would come to ridicule. We see some force in the submission but it is equally true that chagrined and frustrated litigants should not be permitted to give vent to their frustration by cheaply invoking jurisdiction of the criminal court. Complainant herein is an Advocate. He lost in both courts in the rent control proceedings and has now rushed to the criminal court. This itself speaks volumes. Add to this the fact that another suit between the parties was pending from 1975. The conclusion is inescapable that invoking the jurisdiction of the criminal court in this background is an abuse of the process of law and the High Court rather glossed over this important fact while declining to exercise its power under Section 482, Cr.P.C.

12. In the present case also, undoubtedly, the civil suit was filed by the respondent initially against Prithipal Singh, father of the petitioner, in which the father of the petitioner had expired and the petitioner was ordered to be impleaded as his LR. The said civil suit was ultimately decreed in favour of the respondent in the present case on 04.01.2016 by the Civil Judge (Senior Division), Chandigarh. Even, an appeal was preferred by the petitioner before the Appellate Court and as per the judgment dated 02.03.2019, the Appellate Court had also dismissed the appeal filed by the present petitioner. As per the judgments passed by the Civil Court as well as the Appellate Court, Prithipal Singh had executed an agreement to sell and had to obtain the N.O.C. The respondent had attended the office of Sub-Registrar on 10.03.2011 i.e the date of execution of sale deed and had sworn an affidavit, asserting his readiness and willingness to perform his part of the agreement. He also sent a legal notice through his counsel on 14.10.2011, showing his readiness and willingness to



perform his part of the agreement. However, neither the Civil Court nor the Appellate Court had ever observed that the affidavits, which were relied upon by the respondent were forged and fabricated documents nor any finding has been recorded with regard to the forgery of Ex. P-8 i.e sanction letter. Apart from that, no evidence was led by the petitioner before the Courts to show that the sanction letter was forged and fabricated by the respondent in any manner. Still further, the petitioner has levelled allegations of forgery against the respondent, however, he had only filed a copy of Ex.C-1 i.e. the alleged sanction letter on record. Even, he did not bother to get the original file summoned during the course of proceedings. Even, no evidence was led to show that it was the same copies of the sanction letter, which was filed during the trial of the case. Even, the copy of judgment and decree dated 04.01.2016 was placed on record to bring on the file the observations of the Court with regard to the said document. Even, the judgment and decree dated 04.01.2016 was the best evidence, which has been withheld by the present petitioner before this Court. Apart from that, only photocopies of the affidavit of the respondent Ex.CW-2/3, Ex.CW-2/4 and Ex.CW-2/5 had been placed on record to prove that those were forged and fabricated affidavits, filed by the respondent during the trial. However, again there was no evidence to show that the affidavits were false in any manner.

13. In view of the above discussion, I find no grounds to interfere with the impugned order dated 03.08.2019 (Annexure P-10) passed by the Court of Additional Chief Judicial Magistrate-cum-Civil Judge (Senior Division), Chandigarh as well as impugned judgment dated 16.04.2025 (Annexure P-12) passed by the Court of Additional Sessions Judge, Chandigarh and the present



petition is ordered to be dismissed being devoid of merits.

14. Ordered accordingly.

28.07.2025

hitesh

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No