



2025:DHC:5024



IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on:27.06.2025

+ **CRL.A. 797/2023**

SH. DHANI RAM MEHTO Appellant

versus

SH. HARNAM SINGH & ORS. Respondents

Advocates who appeared in this case:

For the Appellant : Mr. Manoranjan and Ms. Aditi Ajmera,
Advocates

For the Respondent : Mr. Ravi Sharma, SPP for the CBI with Mr.
Swapnil Choudhary, Mr. Ishann Bhardwaj,
Mr. Shivam Mishra and Ms. Madhulika Rai
Sharma, Advocates for CBI.
Mr. Vivek Kadyan, Advocate for R-5

**CORAM
HON'BLE MR JUSTICE AMIT MAHAJAN**

JUDGMENT

1. The present appeal has been filed under Section 341 of the Code of Criminal Procedure, 1973 ('CrPC') challenging the order dated 17.07.2023 ('impugned order'), passed by the learned Special Judge, Rouse Avenue Courts Complex, New Delhi, in Case No. MISC DJ ASJ 148/2023.

2. By the impugned order, the learned Special Judge dismissed the application filed by the appellant under Section 340 of the CrPC and



Section 195 CrPC read with Sections 193, 195, 196, 204 and 211 of the Indian Penal Code, 1860 ('**IPC**') and Section 120B of the IPC.

3. The brief facts of the case are as follows:

3.1. On 16.03.2017, the complainant Vakeel Ahmed/ Respondent No.5 made a complaint alleging that he required a 'No Dues certificate' against the property bearing no. 47-A, Ram Bagh Road, Azad Market, Delhi-06 from the DDA and in lieu of issuing the same, the appellant (AD, Damage Department, Room No. 14A, DDA Vikas Sadan, INA, New Delhi) and the accused Satvir, who was working under the appellant, had demanded a bribe of ₹5,000/- from the complainant. Verification of the aforesaid complaint was conducted on 16.03.2017 and the same confirmed the demand of ₹4,000/- on part of the appellant. Pursuant to the same, on the basis of the verification, on 16.03.2017, RC No. DAI-2017-A-0010 was registered against the appellant for the offence under Section 7 of the Prevention of Corruption Act, 1988 ('**PC Act**') by CBI, ACB, New Delhi.

3.2. The conversations recorded during verification proceedings were heard in the presence of independent witness and the complainant and the same corroborated the version of the complainant and the demand of bribe of ₹4,000/- by the appellant, whereafter the verification memo was prepared.

3.3. On 16.03.2017, after registration of the case, a trap was laid wherein the appellant was caught red handed while demanding and



accepting the bribe. It was alleged that the appellant had kept the bribe amount of ₹3500/- with himself which was recovered from him and ₹500 was given to one of the appellant's staff-Suraj Mehto, LDC. The part bribe amount was seized from the accused Suraj. The distinctive number of the notes recovered from the accused persons were tallied. The Left Hand Wash and Right Hand Wash of the appellant and the accused Suraj was taken separately and the same turned the clear solution into pink indicating that they had touched the tainted bribe money prepared for the trap.

3.4. After completion of investigation, the chargesheet was filed for the offence under Section 120B of the IPC read with Section 7 and 13(1)(d) read with Section 13(2) of the PC Act.

3.5. After appreciation of the evidence on record, the learned Special Judge by judgment dated 23.12.2022 convicted the appellant for the offences punishable under Section 7 and under 13(1)(d) of the PC Act, which is punishable under Section 13(2) of the PC Act and acquitted co-accused. The appellant was sentenced to undergo rigorous imprisonment for a period of four years and to pay a fine of ₹15,000/-, and in default of payment of fine, to undergo simple imprisonment for a period of one month. The appellant filed an appeal, being, CRL.A. 102/2023, against his conviction before this Court and his sentence was suspended by order dated 14.02.2023.

3.6. The application under Section 340 of the CrPC was filed by the appellant before the learned Special Judge agitating a number of



grounds alleging that the respondents had all connived in deliberate fabrication, falsification, over writing and tampering of the documents, including, the complaint, the CO register and the verification report. Respondent No.1 was sought to be implicated as he was the Trap Laying Officer ('TLO') and in charge of preparation of all the documents prepared during trap proceedings. Respondent No.2 was sought to be implicated as he was the investigating officer who filed the chargesheet against the appellant despite allegedly having full knowledge about the fabricated documents. Respondent No.3 was sought to be implicated as he was the Verifying Officer who had used the wrong CO No. while preparing the verification memo and the CO register was maintained in the office of Respondent No.4, due to which, he was also sought to be implicated. Respondent No. 5 complainant was sought to be implicated for willingly, intentionally and deliberately participating and consenting to fabrication and falsification of documents.

3.7. By the impugned order, the said application was dismissed by the learned Special Judge. It was observed that given the facts and circumstances, it was not expedient in the interest of justice to file a complaint against the respondents. It was noted that all the arguments raised in the application had been considered by the Court while passing the judgment on conviction. It was observed that the overwriting of the number '2' as '3' on the complaint did not have any adverse implication and appeared to be an inadvertent error which led to no offence. It was found that the error in the verification report in



relation to the wrong CO number was a typographical mistake as was evident from the fact that the transcription as well as page 3 of the verification report itself bore the correct number. It was also noted that the appearing of the name of Suraj Mehto in the CO register had been explained by CBI in its reply to the application under Section 91 of the CrPC, wherein it was stated that the entry was made *after* the trap was concluded. It was further noted that it could not be inferred from the minor differences in the testimonies of certain official witnesses in relation to when they had come to find out about the discrepancy that they had given false evidence. It was observed that the variations in the statements of the witnesses were not material in nature.

3.8. Aggrieved by the same, the appellant filed the present appeal.

4. The learned counsel for the appellant submitted that the learned Special Judge dismissed the application under Section 340 of the CrPC without holding a preliminary enquiry or appreciating the pleas raised by the appellant in relation to a number of manipulations. He submitted that no effort was made by the learned Special Judge to go to the roots of the fabrication that was done by the prosecution.

5. He submitted that it was the plea of the appellant that the complainant had filed more than one complaint and the date on the complaint, on the basis of which the case was registered, was fabricated as '3' had been clearly over written on '2' to make the date-16.03.2017. He submitted that the same supports the contention of the appellant that the overwriting was intentional to ignore the earlier



complaint(s) which Respondent No.5 may have given to CBI. He submitted that the complainant had also admitted in his statement under Section 161 of the CrPC and in his cross-examination that he had paid a bribe of ₹1500/- to Satvir (since acquitted) to trace the process of the concerned file before 16.03.2017. He further submitted that the file was first put before the appellant on 06.02.2017 which further supports the contention that a complaint could have been made by the complainant in the month of February.

6. He submitted that there is also overwriting in the CO register of the CO number as well as the name of the Verifying officer as well. He submitted that the same also suggests that the complainant must have given some other complaint, for which a verifying officer was appointed, but for some reason, the verification process did not yield the desired results, due to which, another complaint was taken and Respondent No.3 was marked as the verifying officer.

7. He submitted that in the column of accused persons, name of three accused persons has been mentioned, including Suraj Mehto, even though, there is no mention of him in the complaint given on 16.03.2017 and his name only cropped up during trap proceedings. He submitted that the name of the co-accused Satvir never came in the recovery memo, despite which, he was named as an accused. He submitted that the same shows that the entire case of the prosecution was fabricated and based on falsities.



8. He submitted that in the verification memo at the top, the CO number has been mentioned as 07/2017, whereas in the transcript, the CO number has been mentioned as 22/2017. He submitted that the same also bolsters the submission that the complainant filed more than one complaint. He submitted that the said aspect has been unsatisfactorily explained by Respondent No.3 in his deposition and there is no explanation as to why the wrong CO number was written. He further submitted that while Respondent No.3 had stated that he came to find out about the error in Court itself, Respondent No.1 has stated that he informed Respondent No.3 at the time of handing over the verification memo that the CO number was wrongly written. He stated that Respondent No.2 had instead stated that he had verified the complaint section and crime and then recorded the statement of Respondent No.3. He submitted that there is clear falsification of record in the present case and there is also clear over writing of the number '17' over '16' in the same.

9. The learned Special Public Prosecutor for the CBI submitted that the appellant had already taken all the grounds in the present appeal as part of his defence before the learned Trial Court, despite which, the appellant has sought to raise the issues again in the application under Section 340 of the CrPC.

10. He submitted that the learned Special Judge has rightly noted that the discrepancies and irregularities are minor and the same do not warrant any complaint against the respondents. He submitted that the



appellant has raised hyper technical grounds and the present appeal is an abuse of the process of law.

11. He further submitted that the complainant has clearly stated in his cross-examination that he did not make any complaint prior to 16.03.2017 due to absence of any proof regarding payment of bribe. He submitted that CO No. 07/2017 pertains to an entirely different case.

12. The learned counsel for Respondent No.5 submitted that the complainant has lodged only one complaint dated 16.03.2017 against the appellant and Satvir, and Respondent No. 5 has stood firm by the same in the trial.

ANALYSIS

13. The appellant has filed the present appeal under Section 341 of the CrPC, which empowers the Appellate Court to direct withdrawal of the complaint under Section 340 of the CrPC or, as the case may be, to direct making of the complaint.

14. The limited question before this Court is whether the learned Special Judge erred in not initiating the proceedings against the respondents under Section 340 of the CrPC.

15. Before delving into the facts of the present case, it is imperative for this Court to discuss the law in relation to Section 340 of the CrPC. Section 340 of the CrPC provides for a preliminary inquiry, if the Court deems it necessary, before lodging of a complaint when an



application is made to it constituting allegations of the offences mentioned in Section 195(1)(b) of the CrPC, which provides for prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence. The said provision 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 152 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.”



16. The Hon'ble Apex Court in the case of *Chajoo Ram v. Radhey Shyam and another* : 1971 (1) SCC 774 had held that prosecution for perjury should be sanctioned only when the perjury appears to be deliberate and conscious and conviction is likely. It was further held that it is to be seen if a *prima facie* case of deliberate falsehood is made out in the facts of the case. The relevant portion of the said judgment is reproduced hereunder:

“7. The prosecution for perjury should be sanctioned by courts only in those cases where the perjury appears to be deliberate and conscious and the conviction is reasonably probable or likely. No doubt giving of false evidence and filing false affidavits is an evil which must be effectively curbed with a strong hand but to start prosecution for perjury too readily and too frequently without due care and caution and on inconclusive and doubtful material defeats its very purpose. Prosecution should be ordered when it is considered expedient in the interests of justice to punish the delinquent and not merely because there is some inaccuracy in the statement which may be innocent or immaterial. There must be prima facie case of deliberate falsehood on a matter of substance and the court should be satisfied that there is reasonable foundation for the charge. In the present case we do not think the material brought to our notice was sufficiently adequate to justify the conclusion that it is expedient in the interests of justice to file a complaint. The approach of the High Court seems some- what mechanical and superficial: it does not reflect the requisite judicial deliberation: it seems to have ignored the fact that the appellant was a Panch and authorised to act as such and his explanation was not implausible. The High Court further appears to have failed to give requisite weight to the order of the District Magistrate which was confirmed by the Sessions Judge, in which it was considered inexpedient to initiate prosecution on the charge of alleged false affidavit that the appellant had not acted as Sarpanch during the period of the stay order. The subject-matter of the charge before the District Magistrate was substantially the same as in the present case. Lastly, there is also the question of long lapse of time of more than ten years since the filing of the affidavit which is the subject-matter of the charge. This factor is also not wholly



irrelevant for considering the question of expediency of initiating prosecution for the alleged perjury. In view of the nature of the alleged perjury in this case this long delay also militates against expediency of prosecution. And then by reason of the pendency of these proceedings since 1962 and earlier similar proceedings before the District Magistrate also the appellant must have suffered both mentally and financially. In view of all these circumstances we are constrained to allow the appeal and set aside the order directing complaint to be filed.”

(emphasis supplied)

17. In the case of *Iqbal Singh Marwah v. Meenakshi Marwah* : (2005) 4 SCC 370, it was observed that the Court is not bound to make a complaint in every case and the discretion is to be exercised *only* when it is expedient in the interests of justice to do so. It was held that the expediency has to be ascertained on the basis of the impact which is caused upon administration of justice. The relevant portion of the judgment is as under:

“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. 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.”

(emphasis supplied)

18. In the present case, the appellant has raised a number of factors to allege that there were a plethora of manipulations in the evidence adduced by the prosecution which warrant prosecution against the respondents, including officials of the investigating agency and the complainant, for offences under Sections 193, 195, 196, 204 and 211 of the IPC. The aforesaid offences pertain to giving false evidence, threatening to give false evidence, using evidence that is known to be false, destruction of document to prevent its production as evidence and institution of false charge of offence made with intent to injure.

19. Considering the nature of the allegations and the outcome of the trial, this Court finds merit in the argument raised by the learned Special Public Prosecutor for CBI that the arguments agitated in the application under Section 340 of the CrPC essentially relate to the defence raised by the appellant in the trial. Being cognizant of the fact that the appeal filed by the appellant against conviction is pending adjudication before this Court, this Court shall now examine the merits of the appellant's contentions for the limited purpose of ascertaining as to whether it would be expedient in the interests of justice to direct prosecution against the respondents by making a



complaint. It is clarified that while the contentions made by the appellant herein in relation to alleged discrepancies and manipulations may not find favour of this Court in relation to making a complaint under Section 340 of the CrPC, however, the same may cast doubt on whether the case of the prosecution has been established beyond reasonable doubt, which will be seen by the Court at the time of considering the merits of the appeal. Any plausible explanations on part of prosecution in relation to the allegations of the appellant may make it so that it is not expedient to direct prosecution against the respondents, but such discrepancies and infirmities in the case of the prosecution may be sufficient for exoneration of the accused.

20. *Firstly*, it is argued on behalf of the appellant that there is some manipulation and over writing in the date of the complaint (on the basis of which the case came to be registered) wherein the digit ‘2’ has been overwritten as ‘3’, making the date–16.03.2017. The learned Special Judge, in the impugned order, has observed as under in this regard:

*“12. The first contention of Ld. Counsel for applicant is that two complaints have been made by the complainant and the complainant had overwritten the digit "2" as "3" in the date mentioned on his complaint, Ex. PW8/ A. Counsel for applicant failed to explain as to how he has inferred that two complaints were made. **If the complainant had overwritten the aforesaid digit then there was no need to file second complaint. Further the overwriting on digit "2" does not have any implication and it appears simply for the reason that someone had inadvertently wrote wrong month and thereafter corrected by over writing. Even otherwise, it cannot be believed that complaint was made on 16.02.2017 as it contains certain facts which had occurred after 16.02.2017. The demand for No Dues Certificate was made by the***



complainant only on 06.03.2017 after deposit of interest charges on account of late payment, which is clear from note dated 06.03.2017, Ex. DW4/PX1 and note dated 10.03.2017, Ex. PW4/D, thus there was no question of demanding No Dues Certificate prior to 06.03.2017 and thus this fact cannot be part of complaint allegedly made on 16.02.2017 and can only be mentioned in the complaint made on 16.03.2017. Further at the bottom of the complaint date was written as 16.03.2017 which further corroborate the fact that complaint was made on 16.03.2017. Further it is difficult to understand if some one changes the date in his complaint by overwriting, how the same would be an offence. No offence is made out under the given facts and circumstances.”

(emphasis supplied)

21. It is argued that the admitted overwriting lends credence to the defence of the appellant that there were two complaints, and further, that the learned Special Judge erroneously found that there could have been no demand prior to 06.03.2017 as the complainant has stated that he had paid some bribe amount to co-accused Satvir in February, 2017 itself. As far as the argument in relation to alleged demands dating back to February, 2017 are concerned, in his statement under Section 161 of the CrPC, the complainant has stated that the initial bribe was sought for tracing the file by accused Satvir, who has been acquitted. The complaint on the other hand is in relation to bribe asked for giving “No Dues Certificate”, which could have only asked for after 06.03.2017 after deposit of interest charges. As also rightly pointed out by the learned Special Public Prosecutor for CBI, the complainant has categorically stated in his cross-examination that he had not made any complaint prior to 16.03.2017 as he had no proof. Most importantly, it is not the case of the appellant that there is overwriting on the bottom of the complaint as well, which clearly mentions the



date as 16.03.2017. This lends favour to the observation of the learned Special Judge that the over writing seems to be merely an inadvertent error. The error does not seem deliberate or done with the intent to falsify evidence.

22. *Secondly*, it is argued that the CO number has been wrongly mentioned in the verification report. The learned Special Judge, in the impugned order, has observed that CBI has tendered a plausible explanation for the same that the error was merely a typographical error. It was also noted that the transcription attached with the verification report contains the correct CO number and para 3 of the report also mentions the correct CO number. The said aspect had also been dealt in the judgment on conviction where it was noted that the crime register clearly shows that the wrong CO number of 7/17 is bearing the name of informant–‘Sandeep Kumar’. It is pertinent to note that Respondent No.3, who was the verification officer, had deposed that the error was caused inadvertently. This Court finds the said explanation to be logical. The error in this regard seems to be due to inadvertence.

23. *Thirdly*, it is argued that there are certain discrepancies in the statements of Respondent No.3 and Respondent No.1 in relation to when Respondent No.3 found out about the error in the CO number in the verification report. While Respondent No.1 stated that he had informed Respondent No.3 of the error in the CO number at the time of handing over the verification memo and told Respondent No.2 of the same when his statement was recorded, Respondent No.3 stated



that he found out about the error only in Court and Respondent No.2 stated that he had verified the complaint section and crime section and then recorded the statement of Respondent No.3. The aforesaid discrepancies can stem more error in memory of the officials. To err is human and the officials cannot be expected to have perfect memory. Merely on account of these minute discrepancies, it cannot be concluded that the intent of the said officials was to adduce false evidence. The aforesaid discrepancies are even otherwise trivial in nature and do not have any substantial bearing on the overall administration of justice.

24. *Fourthly*, it is also argued that the name of the Suraj Mehto has been mentioned in the CO Register, even though, his name only cropped up during the trap proceedings. As per CBI, the entry was made in the CO Register after trap proceedings had been conducted. It is argued that if the CO Register entry was based on the trap proceedings, then there was no reason for mention of the name of co-accused Satvir who was absent at the time when the trap was done. The learned Special Judge has noted that while the complete entry in CO Registry should have been made at the time of filing the complaint, however, as noted in the judgment on conviction, the same is merely a procedural irregularity and does not affect the case of the prosecution. It is pertinent to note that the said aspect is easily explainable. The CBI has admitted that the entry was made after trap proceedings, wherein, it appears that the name of co-accused Satvir was also mentioned as he is named in the complaint and the name of



Suraj Mehto was mentioned as he took ₹500 out of the bribe amount. The same does not show commission of any offence to falsify the evidence.

25. *Fifthly*, it is argued that there is some overwriting in the CO register of the name of the verifying officer as well as the CO number. It is again argued that the CO number has been wrongly mentioned here as CO7-17. It is argued that there was no occasion of rewriting and cutting in the CO register. As discussed above, the CO 7/17 pertains to a different matter and it appears that the wrong CO number was written erroneously. The reply by CBI mentions that the entries were made in a natural way by the custodian of the Crime Register in pencil and later by pen. The said argument seems logical. I have perused the black and white copy of the register as annexed in the appeal. A coloured copy is also placed on record which shows that the haziness is borne out of pencil marks not being erased properly rather than rewriting. In the opinion of this Court, the said argument is also unmerited and does not show commission of any of the offences as mentioned in Section 195(1)(b) of the CrPC so as to merit registration of complaint.

26. Much emphasis has also been laid by the appellant on the fact that the learned Special Judge dismissed the application without conducting any enquiry into the allegations raised by him. While an appropriate inquiry can be ordered under Section 340 of the CrPC in case cogent allegations are put forth in relation to commission of one of the offences mentioned in Section 195(1)(b) of the CrPC, however,



as held by the Hon'ble Apex Court in the case of *Iqbal Singh Marwah v. Meenakshi Marwah* (*supra*), it is not necessary that the Court has to order such an inquiry under Section 340 of the CrPC in every case. It is a settled law that the Court may refrain from passing any order in regard to filing of false evidence if it is not expedient in the interest of justice. In the facts of the present case, considering the nature of allegations made in the application, this Court finds that there was no need for an inquiry and the learned Special Judge committed no error in dismissing the application on the basis of the material on record without conducting the same.

27. In view of the aforesaid discussion, in the opinion of this Court, the learned Special Judge in the impugned order has given due consideration to the contentions raised by the appellant and rightly concluded that it is not expedient in the interests of justice to direct making of a complaint under Section 340 of the CrPC. The impugned order thus warrants no interference.

28. The present appeal is dismissed in the aforesaid terms.

29. It is again clarified that the observations made in the present judgment are only for ascertaining the expediency of directing prosecution under Section 340 of the CrPC and the same shall have no bearing on the merits of the appellant's defences in his appeal.

AMIT MAHAJAN, J

JUNE 27, 2025