



2025:DHC:5149



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

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*Reserved on: 23rd May 2025
Pronounced on: 30th June 2025*

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W.P.(CRL) 3895/2018

1. RAJIV GUPTA

S/o Lt. Sh. Bhagwan Dass,
R/o B-2/6A, Model Town-II,
Delhi-110009

.....Petitioner

Through: Mr. Mohit Mathur, Sr. Advocate with
Mr. Shailesh Chandra Jha and
Mr. Vighnesh Ramanathan, Advs.

versus

1. THE STATE

Govt of NCT
New Delhi

2. VED PRAKASH GUPTA

S/o Lt. Sh. R.S. Gupta
R/o H-3/1, Model Town-III
Dr. Mukherjee Nagar
Delhi-110009

.....Respondents

Through: Mr. Sanjeev Bhandari, ASC for State
with Mr. Arjit Sharma, Mr. Nikunj
Bindal and Ms. Nishtha Dhall, Advs.
with SI Sanjay Kumar, ISC / Crime
Branch, New Delhi.
Mr. Sachin Jain and Mr. Amit Kumar,
Advs. for R-2.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.



CRL.M.A. 23341/2023 (seeking initiation of appropriate proceedings u/s 340 Cr.P.C.) & CRL.M.A. 15261/2025 (for adjournment)

1. Application has been filed on behalf of the Respondent No. 2/Ved Prakash Gupta for initiation of proceedings under Section 340 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as the "Cr.P.C."*) against the Petitioner, Rajiv Gupta for commission of offence punishable under Sections 199/200 of the Indian Penal Code, 1860 (*hereinafter referred to as the "IPC"*).

2. *The brief background of the case* is that Respondent No. 2/Complainant, Ved Prakash Gupta had filed a Complaint with the Police against the Petitioner, Rajiv Gupta wherein it was asserted that Rajiv Gupta, Proprietor of M/s Bhagwan Dass and Co. and M/s Roshan Oil Mills was introduced to Respondent No. 2 through common friend. Respondent No. 2, Ved Prakash Gupta misrepresented about his intent to establish a University in Dehradun for which he claimed to have already obtained necessary permissions. It was further assured that Petitioner, Rajiv Gupta would pay him handsome interest on the proposed investment once the University is ready and the Respondent No. 2 would be entitled to get one candidate admitted in each course without paying any capitation fee besides enjoying full say in the affairs of the University and get other benefits as well. Respondent No. 2 was lured to invest Rs.110 Lacs as funds required for purchase of funds required for purchase of land, construction of building, obtainment of necessary permission, etc.

3. The Respondent No. 2 thus, alleged that the Petitioner, Rajiv Gupta neither established the proposed University nor paid any interest on the



investments; rather he kept putting off the return on the invested amount, whenever the same was demanded by the Respondent No. 2.

4. On the Complaint of Respondent No. 2, ***FIR No. 211/2018 under Section 420 IPC*** was registered at P.S. Crime Branch on 21.08.2018, against the Petitioner.

5. The Petitioner, Rajiv Gupta filed ***W.P.(CRL) 3895/2018 seeking quashing of the FIR No. 211/2018 dated 21.08.2018***. The Respondent No. 2, Ved Prakash Gupta, asserted that during the pendency of the Writ Petition, the Petitioner, Rajiv Gupta expressed his intent to settle the matter before this Court on 19.12.2018. He also undertook to provide four properties in Delhi to secure the claims of Respondent No. 2. An Affidavit was also filed in support thereof, wherein properties listed at Sl. No. 2, 3 and 4 were in his exclusive name and free from any encumbrances. However, property at Sl. No. 1, i.e. Plot No. 21, Sector 9, Dwarka was stated to be in the name of Late Sh. Bhagwan Dass, father of Rajiv Gupta. The co-sharers of the property were stated to have already given ***“No Objection”*** in the name of the Petitioner. The value of the property is approximately Rs.2.3 crores.

6. The Respondent No. 2 further asserted that this Court in its Order dated 19.12.2018, considered the Affidavit dated 08.01.2019 and observed that Petitioner, Rajiv Gupta had undertaken not to sell or create any charge on the aforesaid four properties.

7. ***The Petition was disposed of on 15.10.2019*** whereby it was directed that both the Complainant as well as the Petitioner shall submit their Income Tax Returns since 2010 along with the computation of income highlighting the treatment of amounts received by them pursuant to their *inter se* transaction. It was also observed that after the FIR, the quashing was sought.



Respondent No. 2 made further assertions which are inconsistent with his Complaint at least insofar as the amounts invested are concerned. He now alleges that the invested sum by him was significantly larger than what was claimed earlier in his Complaint. It was observed that *prima facie, it appears that Police Authorities are now being used by Respondent No. 2, Ved Prakash Gupta to iron out his commercial transaction with the Petitioner, Rajiv Gupta.* This Court refrained from making any observations but noted that it is expected of the Police Authorities that they would act in accordance with the law and conduct their investigations into the Complaint made by Respondent No. 2, Ved Prakash Gupta as well as the explanations offered by the Petitioner, Rajiv Gupta. *The Petition was thus, disposed of with the directions to both the Petitioner, Rajiv Gupta as well as the Respondent No. 2, Ved Prakash Gupta to produce their books of accounts, etc., which may be examined by the Investigating Officer to ascertain whether the disputes as to the said transactions are in the realm of civil dispute.*

8. Thereafter, present Application was filed on behalf of the Respondent No. 2, for initiation of proceedings under Section 340 Cr.P.C. against the Petitioner for commission of offence punishable under Sections 199/200 IPC.

9. The Respondent No. 2 has asserted that despite giving such an Undertaking in the Affidavit dated 08.01.2019 and in his statement that no charge shall be created on the said property, the property listed at Sl. No.1 has been alienated to one Naresh Solanki *vide* registered GPA executed on 16.06.2021 by Smt. Santosh Devi i.e. mother of the Petitioner, Rajiv Gupta.

10. The Respondent No. 2/ Complainant alleged that the very fact that the property has been sold by Smt. Santosh Devi, implies that the Petitioner as



well as other co-sharers have relinquished their respective shares of the property in the name of the mother or else the said property could not have been alienated.

11. The Respondent No. 2 has thus, asserted that Declaration of the Petitioner made vide Affidavit dated 08.01.2019, was false to his own knowledge and was intended to procure the interim relief by misleading this Court. Therefore, Petitioner is liable to be proceeded under S.340 Cr.P.C.

12. **Petitioner, Rajiv Gupta filed a detailed Reply** wherein he took the preliminary objection that the present Application is brought with false averments and deserves to be dismissed with heavy cost. The present Application is gross abuse of the process of law.

13. The Petitioner has explained that he was a co-sharer in 120 sq. yds. plot bearing No. 21, Sector-9, Dwarka. He has also stated that admittedly on 19.12.2018, all the co-sharers/family members of the Petitioner, Rajiv Gupta had given their no objection to him.

14. The Petitioner submits that the main Writ Petition was disposed of by this Court *vide* Order dated 15.10.2019 whereby it was noted that *prima facie*, it appears that Police Authorities are now being used by Respondent No. 2, Ved Prakash Gupta to iron out his commercial transaction with the Petitioner, Rajiv Gupta. The Petition was thus, disposed of with the directions to both the Petitioner, Rajiv Gupta as well as the Respondent No. 2, Ved Prakash Gupta to produce their books of accounts, etc., which may be examined by the Investigating Officer to ascertain whether the disputes as to the said transactions are in the realm of civil dispute.



15. The Petitioner, further stated that a *Closure Report in the said FIR dated 21.08.2018 was filed by the Police Authorities in February, 2021 before the Ld. MM.*

16. It is further explained that due to the onset of Covid-19 Pandemic, the Petitioner's family suffered losses. The mother of the Petitioner, Rajiv Gupta aged about 74 years, suffered an impact on her health which got worsened due to the Covid-19 Pandemic. She required funds and since the Petition was disposed of and the Cancellation Report was already filed and that the Petitioner had already paid Rs.1.25 crores against the Rs.1.10 crores claimed in the FIR dated 21.08.2018, the Petitioner *bona fide* believed that after the final Order dated 15.10.2019 and filing of Closure Report, the Undertaking stood satisfied. Consequently, he surrendered his share in the property, which was valued at Rs.40 lacs. The intentions of the Petitioner was neither dishonest nor malicious but for the reasons explained above. It is asserted that there is no false statement or evidence tendered by the Petitioner, Rajiv Gupta before this Court or any Agency.

17. In the end, it is stated that it is the settled proposition of law as has been detailed in various judgments of the Apex Court, the interim order merges with the final Order. Moreover, while disposing of the Writ Petition on 15.10.2019, there were no observations in regard to the lien on the above said properties.

18. *On merits, all the averments made in the Petition, are denied and accordingly prayed that the present application be dismissed.*

19. **Submissions heard and record perused.**

20. The Petition was filed by Petitioner (accused) for quashing of FIR No. 211/2018 dated 21.08.2018.



21. *By way of present Application, it is claimed that the Petitioner had made a false statement in his affidavit dated 08.01.2019 wherein he had given the four properties on which lien to secure the claim of Respondent No. 2 was created as property at Serial No1 has been sold despite the undertaking.*

22. The Petitioner in order to establish his *bona fide*, offered to pay Rs.75 lacs in three tranches by 31.01.2019. He also agreed to deposit his passport to the Registrar General of this Court. He also offered to explore the possibility of settlement. The parties were accordingly referred to Mediation and Conciliation Centre, Delhi High Court.

23. Four properties in Delhi were handed over by the Petitioner in respect of which Affidavit dated 08.01.2019 was filed, on which lien/interest were directed to be created.

24. Pertinently, the Petition for quashing of FIR No. 211/2018 dated 21.08.2018 was disposed of *vide* Order dated 15.10.2019 wherein it was noted that *prima facie*, the dispute *inter se*, the parties was civil in nature and apparently Respondent No. 2, Ved Prakash Gupta was trying to use the Police Authorities to undercount his commercial transaction with the Petitioner, Rajiv Gupta. The Petition was disposed of with the direction to Respondent No. 2, Ved Prakash Gupta as well as the Petitioner, Rajiv Gupta to cooperate and produce all the relevant records before the IO, who was expected to conduct the investigations in a fair manner.

25. ***The first aspect which emerged*** during the hearings, was that *relationship between the parties was primarily in the nature of civil contract and commercial dealings*. The parties stated to have had the dealings of almost Rs.100 crores. Some monies were due from the Petitioner to the



Complainant which was stated to be Rs.9.60 crores in the last 06 months. The Petitioner admitted that Rs.3.46 crores were yet to be paid by him to Respondent No. 2, Ved Prakash Gupta although in the FIR, the claim of the cheated amount was Rs.1.10 crores.

26. It has been consistently observed by this Court that the disputes raised in the FIR No. 211/2018 were essentially civil in nature and Respondent No. 2 was merely using the Police machinery to settle the commercial transaction. This is significant in the light that a Closure Report was submitted in the FIR No. 211/2018 in February, 2021.

27. ***The second aspect which emerges is that*** the present Petition for quashing of FIR, the Affidavit for creating Lien in respect of four properties was furnished by the Petitioner. The petition itself was disposed of *vide* Order dated 15.10.2019 with the simple directions to the IO to conduct the investigations fairly. *No Lien on the properties was directed to be continued.*

28. From the above narrative of facts, it is evident that while considering the Petition for quashing of FIR No. 211/2018, it was only on the offer of Petitioner, Rajiv Gupta who had a genuine intent to settle the dispute, who offered four of his properties on which lien may be created for securing the outstanding amount to Respondent No. 2, Ved Prakash Gupta. Pertinently, in the FIR No. 211/2018, the allegations were made in regard to Rs.1.10 crores, while the Petitioner, Rajiv Gupta asserted that in the last 06 months, there was an amount of Rs.3.6 crores, which was outstanding. To show his *bona fide*, he paid Rs.1.25 crores during the pendency of the Writ Petition, which amount was more than the amount stated in the FIR No. 211/2018. It is only for the balance amount which was admitted by the Petitioner, question arose for securing it by creating a lien on the property.



29. It is significant to note that as has been observed by this Court, the Criminal proceedings were being used by the Respondent No. 2/Complainant only to settle his commercial disputes. There was no question nor is there any provision under criminal law for creating a lien over the properties to secure the monetary interest of the Complainant, Ved Prakash Gupta. Clearly, the Petitioner, Rajiv Gupta himself has offered his properties for creating a lien to secure the outstanding amount. It is not as if this offer was pursuant to the directions of the Court.

30. *The next question is whether the sale of this property, Plot in Dwarka by the mother, can be termed as making of a false statement in the affidavit making the Petitioner liable for punishment under Sections 199/200 Cr.P.C.*

31. The affidavit indicated four properties of the Petitioner, Rajiv Gupta out of which, property stated at Sl. No. 2, 3, 4 were his exclusive properties. The property at Sl. No. 1, which is the Plot in Dwarka was the joint property in which the Petitioner, Rajiv Gupta had a share of about Rs 40 Lacks.

32. At the time when the Affidavit dated 08.01.2019 was given, it had been clearly reflected that there were other co-sharers aside from him in the said Dwarka Plot but they all had given a no objection to the creation of lien in respect of that property. *There was no false statement in the affidavit at the time it was made.*

33. The lien continued till the disposal of the Petition on 15.10.2019.

34. The above chronology of events clearly reflects that the Petitioner had offered to create a lien on the property only to establish his *bona fide* that he was genuinely interested in settling the dispute with Respondent No. 2, Ved Prakash Gupta. It was not a permanent lien created on his properties.



35. Even if for the sake of arguments, it is accepted that the lien was directed to be created on the said property, but it cannot be overlooked that these Orders were essentially interim in nature while considering the Petition for quashing of the FIR No. 211/2018.

36. *Once the Petition got disposed of on 15.10.2019, nothing survived in the matter.* There was no provision under the criminal law for continuing of this lien on the property merely to secure the claims of the Respondent No. 2, Ved Prakash Gupta which may eventually get ascertained in civil proceedings. It is therefore, evident that the lien on the said property was offered by the Petitioner only to establish his *bona fide* and not with an intent to mislead or to make false statement.

37. Pertinently, he had sought the quashing of FIR No. 211/2018 which was not allowed, but the directions were given to the IO to continue with the investigations. *In the circumstances, it cannot be said that any undue benefit was drawn by the Petitioner, Rajiv Gupta by furnishing this Affidavit dated 08.01.2019 to this Court.*

38. The entire premise of Respondent No. 2, Ved Prakash Gupta in filing this Application under Section 340 Cr.P.C. is clearly not with an honest intent but to settle his commercial disputes with the Petitioner. It is evident that ***the present proceedings are being misused by the Respondent No. 2 Gupta only with the intent to be able to extract some settlement of his dues from the Petitioner, which cannot be permitted.***

39. It also cannot be overlooked that as per the FIR No. 211/2018, only Rs.1.10 crores were claimed to be due, though the Petitioner himself admitted that his liability in the last 06 months, to be of Rs.3.6 crores approximately. During the pendency of the present Petition, Rs.1.25 crores



had been voluntarily paid by the Petitioner, Rajiv Gupta. In this scenario, to say that any false affidavit has been furnished, is absolutely and blatantly incorrect.

40. The *last aspect* which needs to be specified is that the property got sold by the mother in 2021 i.e. much after the disposal of the present Petition. Furthermore, there are three other properties which had been offered by lien in addition to the plot in Dwarka; there is no assertion nor is it asserted by the Respondent No.2 that the other three properties were not sufficient to cover the amount which Petitioner had admitted as due to the Respondent No. 2, Ved Prakash Gupta.

41. *In the end*, it may be considered that Section 340 Cr.P.C. provides for procedure to be followed when any document produced or evidence given in any proceedings is asserted to be false and made deliberately and consciously.

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

“Section 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 interest 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 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....”

43. In ChajooRam vs. Radhey Shyam, (1971) 1 SCC 774, it was held as under:

“12. It is trite law that so as to enable the court to refuse to exercise its discretionary jurisdiction suppression must be of and material fact. What would be a material fact, suppression whereof would disentitle the appellant to obtain a discretionary relief, would depend upon the facts and circumstances of each case. Material fact would mean material for the purpose of determination of the lis, the logical corollary whereof would be that whether the same was material for grant or denial of the relief. If the fact suppressed is not material for determination of the lis between the parties, the court may not refuse to exercise its discretionary jurisdiction. It is also trite that a person invoking the discretionary jurisdiction of the court cannot be allowed to approach it with a pair of dirty hands. But even if the said dirt is removed and the hands become clean, whether the relief would still be denied is the question.”

44. In State (NCT of Delhi) v. Pankaj Chaudhary, (2019) 11 SCC 575 it was held that prosecution for perjury be sanctioned by the courts only in those cases where perjury appears to be deliberate and that prosecution ought to be ordered where it would be expedient in the interest of justice to punish the delinquent and not merely because there is some inaccuracy in the statement.



45. In Yashovardhan Birla v. Kamdhenu Enterprises Ltd., 2023 SCC OnLine Del 7311 it was observed that for initiating proceedings under Section 340 of the CrPC, the statements should have been made deliberately and consciously.

46. In the light of the aforesaid judgments, it is evident that there is no case whatsoever under Section 340 Cr.P.C., which has been made out in the Application filed by the Respondent No. 2. There is no false evidence or statement given in the Affidavit. Further, no undue advantage has been taken by the Petitioner under this Affidavit, which had been furnished by him to establish his financial disputes with the Respondent No.2 and indeed payment of amount more than that stated in the FIR, was paid during the pendency of the Petition.

47. In the circumstances, neither was there any false evidence/Affidavit furnished *nor is it expedient or in the interest of justice to initiate the proceedings under S.340 Cr.P.C.* Rather, the Application under S.340 Cr.P.C. seems to be aimed at settling Civil disputes, which is not the objective of proceedings under this Section, which is intended to maintain the purity of the stream of justice.

48. Therefore, there is no merit in the Application under S.340 Cr.P.C. which is hereby, dismissed. All the pending Application(s) are accordingly disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

JUNE 30, 2025

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