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

% *Judgment delivered on: 16.09.2025*

\+ **CRL.A. 251/2007**

CHANDER PAL SINGH .....Appellant

Through: Mr. Harsh Jaidka, Advocate

versus

STATE THRU NCT OF DELHI .....Respondent

Through: Mr. Naresh Kumar Chahar, APP for the State with Ms. Puja Mann, Advocate and with SI Devendra Singh, PS Nand Nagri.

CORAM:
HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

DR. SWARANA KANTA SHARMA, J

1. By way of the present appeal, the appellant is seeking setting aside of the judgment dated 10.04.2007 [hereafter '*impugned judgment*'], passed by the learned Additional Sessions Judge, Karkardooma Courts, Delhi [hereafter '*Trial Court*'], in Sessions Case No. 117/2006, arising out of FIR bearing no. 190/2006, registered at Police Station Nand Nagri, Delhi, for the commission of offences punishable under Sections 363/366/376 of the Indian Penal Code, 1860 [hereafter '*IPC*'].

2. Briefly stated, the facts of the present case are that the appellant was working as an Assistant Sub-Inspector in Delhi Police

and was posted at P.S. Nand Nagri, Delhi, when the aforenoted FIR was registered and was assigned to him for investigation. After investigation, he had filed the chargesheet, and after conclusion of trial, the learned Trial Court *vide* judgment dated 09.04.2007 had convicted the accused Sukhdev Singh for the commission of alleged offences and had sentenced him to undergo rigorous imprisonment for a period of three years for offence under Section 363 of IPC, four years for offence under Section 366 of IPC, and seven years for offence under Section 376 of IPC alongwith payment of fine. The co-accused Satpal was, however, acquitted of the charges.

3. The records reveal that while pronouncing the judgment dated 09.04.2007, the learned Trial Court had observed, *inter alia*, in paragraph 24 thereof that accused Sukhdev had been arrested from village Raipur, District Aligarh, Uttar Pradesh and the prosecutrix was recovered from the said village whereas the present appellant ASI Chander Pal and Constable Ombir Singh had prepared fabricated and incorrect record that he was arrested from ISBT Anand Vihar, Delhi. The Trial Court also observed that both of them had also deposed to the similar effect, which amounted to giving false evidence before the Court. The learned Trial Court accordingly found it to be expedient to punish them for the offence of intentionally presenting false evidence by fabricating it and tendering it in judicial proceedings.

4. Vide separate order dated 09.04.2007, the learned Trial Court called upon the appellant as well as Constable Ombir Singh to

explain as to why legal action should not be initiated against them. The said order reads as under:

> " In the judgement, a finding has been recorded to this effect that ASI Chander Pal and Constable Ombir Singh made false statements and Chander Pal ASI made incorrect entries in the record. They are called upon to explain as to why legal action should not be initiated against them.
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> Case is adjourned for explanation by Chander Pal ASI and Ombir Singh, Constable, and for order on sentence for 10.04.07."

5. Thereafter, on 10.04.2007, a notice was served upon the present appellant to show cause as to why he should not be summarily tried and punished for commission of offence punishable under Section 193 of IPC. The learned Trial Court, by way of impugned judgment of the same date, i.e. 10.04.2007, convicted the appellant for offence under Section 193 of IPC read with Section 344 of Cr.P.C. and on the same day, also sentenced him to undergo rigorous imprisonment for a period of three months and pay a fine of ₹500/-, in default of which he was directed to undergo simple imprisonment for a period of ten days. The relevant observations in the said decision are as under:

> "....Investigation of case titled as State Vs. Sukhdev Singh bearing FIR No. 190/06, registered at police station Nand Nagri, Delhi, for offences punishable under sections 363 and 376 of the Indian Penal Code, was assigned to Chander Pal ASl. He associated Ombir Singh, Constable, in the investigation, besides Manjeet Singh and Dayanand and went to village Raipur, District Aligarh, U.P. House, belonging to mother's sister of Sukhdev Singh was raided and from the said house Harvinder Kaur was recovered. Sukhdev Singh was also arrested from there. Harvinder Kaur and Sukhdev Singh were

brought to Delhi and they were shown to have been arrested from ISBT Anand Vihar, Delhi, on 17.03.06.

2. To substantiate the charges against accused Sukhdev Singh, Harvinder Kaur, Kuldeep Kaur, Manjeet Singh, Harbir Singh ASl, Devi Ram, Ombir Singh, Constable, Poonam Rani, Lady Constable, Veer Sain, Constable, Dr. M. Dass, Sanjeev Kumar IVlalhotra, Metropolitan Magistrate, Chander Pal Asl and Dr. Richa Aggarwal were examined by the prosecution.

3. During the Course of appreciation of evidence, it emerged out of facts testified by Manjeet Singh and. Harvinder Kaur that she was recovered by police from a house in village Raipur, District Aligarh, U.P. It also surfaced that Sukhdev Singh was arrested from the said house in village Raipur, District Aligarh, U.P. Ombir Singh, Constable, and Chander Pal ASI testified- that Sukhdev Singh was arrested from ISBT Anand Vihar, Delhi, on 17.03.06. While recording findings in the case, it was concluded that incorrect record was prepared and false evidence was given by Chander Pal ASI and Ombir Singh, Constable. It was thought expedient to try them summarily for offence punishable under section 193 of the Penal Code read; with section 344 of the Code of Criminal Procedure. 1973 (in short the Code).

4. Notice under section 193 of the Penal Code read with section 344 of the Code were served upon Chander Pal ASI and Ombir Singh, Constable. Ombir Singh pleaded that Sukhdev Singh was arrested from village Raipur, District Aligarh, U.P., and was shown to have been arrested at ISBT Anand Vihar, Delhi. Since he was a constable, hence he was not in a position to go against the investigating officer. Under such circumstances, he made a false statement. Accused Chander Pal Singh also pleaded guilty to the notice served upon him. Therefore, I held them guilty for an offence punishable under section 193 of the Penal Code read with section 344 of the Code.

5. Since Ombir Singh, Constable, had to testify facts under dictates of his senior, he wept bitterly and assured the Court that in future he will be more careful. 1 am of the considered opinion that it is a fit case, where leniency should be shown to him. Consequently, Ombir Singh, Constable, is sentenced to pay a fine of Rs.500/-. In default of payment of fine, he would undergo SI for ten days.

6. There is no remorse on the face of Chander Pal ASI. He intentionally fabricated false record and gave false evidence in judicial proceedings. In case, such officers are not dealt

> severely, then administration of criminal justice system would be a casualty. Taking into account all the facts in entirety, Chander Pal ASI is sentenced to undergo Rl for three months and to pay a fine of Rs.500/-. In default of payment of fine, he would further undergo SI for ten days. A copy of judgment be supplied to convict Chander Pal ASI free of cost...."

6. Aggrieved by his conviction, the appellant has preferred this appeal.

7. The learned counsel appearing on behalf of the appellant argues that the learned Trial Court has failed to appreciate that the appellant was a public servant and had actively discharged his official duties while apprehending the accused Sukhdev and recovering the prosecutrix. It is argued that a prior sanction was required for initiating action or taking cognizance of the offence under Section 193 of IPC against him. In this regard, this Court's attention to Section 197 of Cr.P.C was also drawn by the learned counsel. It is also argued that the learned Trial Court has totally ignored the purport of the provisions of Section 344 of Cr.P.C. and misapplied the same in the facts of the case. It is argued that the learned Trial Court has failed to appreciate that before Section 344 of Cr.P.C. can be invoked, a foundation has to be laid down for acting on the same, which was absent in the present case. In this regard, he draws this Court's attention to the decision in ***Varghese @ Sibi, Appellant v. State of Kerala***: *1989 CRL. L.J. 2041*. It is further contended on behalf of the appellant that the learned Trial Court failed to appreciate that there was total non-compliance with provisions of Sections 251/252/263/360 of Cr.P.C., as well as Section

304 of Cr.P.C. as the entire case was decided by the learned Trial Court in one day. The learned counsel for the appellant also contends that the learned Trial Court failed to appreciate that the FIR in question was investigated by the appellant, which pertained to kidnapping of a child and her rape, and after an investigation was conducted by him, a conviction thereon had been rendered *qua* the accused persons. He further submits that appellant had been promoted to ASI rank only in the year 2005 and the present case was the first independent case for offence under Sections 363/366/376 of IPC being investigated by him. It is thus prayed that the judgment passed by the learned Trial Court be set aside.

8. The learned counsel for the APP, on the other hand, does not dispute the factual position submitted by the learned counsel for the appellant.

9. This Court has **heard** arguments addressed on behalf of the appellant as well as the respondent, and has perused the material available on record.

10. In the present case, a perusal of the impugned judgment reveals that, while convicting the appellant herein, the learned Trial Court has observed that the appellant, being the Investigating Officer, had intentionally fabricated false record and given false evidence in judicial proceedings by showing the arrest of the accused Sukhdev Singh at ISBT Anand Vihar, Delhi, despite his actual arrest and recovery of the prosecutrix from a house in village Raipur, District Aligarh, U.P. The learned Trial Court further held that such conduct

on the part of the appellant amounted to a deliberate attempt to mislead the Court and, therefore, he was liable to be punished under Section 193 of IPC read with Section 344 of Cr.P.C.

11. Section 193 of IPC reads as under:

> "**193**. Punishment for false evidence.
>
> Whoever intentionally gives false evidence in any of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine."

12. Further, relevant portion of Section 344 of Cr.P.C. is set out below:

> "**344**. Summary procedure for trial for giving false evidence.
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> (1) If, at the time of delivery of any judgment or final order disposing of any judicial proceeding, a Court of Session or Magistrate of the first class expresses an opinion to the effect that any witness appearing in such proceeding had knowingly or wilfully given false evidence or had fabricated false evidence with the intention that such evidence should be used in such proceeding, it or he may, if satisfied that it is necessary and expedient in the interest of justice that the witness should be tried summarily for giving or fabricating, as the case may be, false evidence, take cognizance of the offence and may, after giving the offender a reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily and sentence him to imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees, or with both.
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> (2) In every such case the Court shall follow, as nearly as may be practicable, the procedure prescribed for summary trials…"

13. Evidently, Section 344 of Cr.P.C. provides certain requirements, that are: (a) the witness had given false evidence, (b) he gave it willfully or knowingly, (c) he gave it with intention of using it in such proceeding, (d) Court forms an opinion about giving of false evidence by such witness, and (e) it is necessary and expedient in the interest of justice to try the witness summarily; the Court then should (i) give reasonable opportunity to show cause against possible conviction, (ii) conduct summary trial of such offender, and (iii) sentence him appropriately.

14. Having heard the submissions of the learned counsel appearing for the parties and upon a careful and anxious perusal of the record of the case, this Court is of the considered view that the impugned judgment convicting and sentencing the appellant herein was passed in a tearing hurry by the learned Trial Court. This becomes evident from the sequence of events, inasmuch as while delivering the judgment in the main case on 09.04.2007, the learned Trial Court recorded certain observations regarding the alleged lapses on the part of the appellant and expressed an opinion that he had deposed falsely before the Court. On the same day, by a separate order of even date, the learned Trial Court directed the appellant to furnish his explanation in respect of the said conduct and posted the matter for the very next day.

15. What is of significance is that on the following day, the learned Trial Court, instead of awaiting and duly considering any explanation that the appellant might have wished to put forth, proceeded to frame

notice straightaway against him and commenced the summary trial. This haste becomes more glaring when one notes that the appellant was not represented by any lawyer on that day, though he was now being treated as an accused in proceedings that could entail his conviction and sentencing. Once the learned Trial Court had decided to treat the Investigating Officer of the case as an accused in proceedings under Section 344 of Cr.P.C., the Court was bound to ensure that all rights available to an accused were scrupulously preserved and made available to him, including, and most significantly, the right to be represented by a counsel of his own choice. However, the learned Trial Court paid no heed to this fundamental safeguard, and in its zeal to proceed against the appellant, brushed aside these essential requirements of law and fairness. The appellant has also submitted before this Court, and the same has not been disputed on behalf of the State, that he was intimidated in the Trial Court, that he was not permitted to engage or be assisted by any lawyer, and that he was not granted any effective opportunity to tender an explanation in his defence. In these circumstances, his plea of guilt recorded by the learned Trial Court cannot be said to be voluntary or informed, but appears to have been extracted in a setting where the appellant stood undefended and overwhelmed by the atmosphere of the proceedings.

16. It is trite that Section 344 of Cr.P.C. empowers a Court to initiate summary proceedings in respect of a witness who, in its opinion, has knowingly or wilfully given false evidence or fabricated false evidence in the course of proceedings, the exercise of such

power is hedged with important safeguards. The statute itself makes it abundantly clear that only after giving the person concerned a "reasonable opportunity of showing cause" as to why he should not be tried, can the Court then proceed to try him summarily in accordance with the procedure prescribed for summary trials. The use of the expression "reasonable opportunity" is not without significance, and it necessarily connotes that sufficient time, as well as a fair chance to defend oneself must be afforded before serious consequences as conviction and sentencing can follow.

17. In the present case, however, what transpired was contrary to the above. The learned Trial Court, having called upon the appellant to furnish an explanation, fixed the matter for the very next day, and before even waiting for or considering any such explanation, went ahead to frame notice, initiate the trial, and convict and sentence the appellant all within a span of barely 24 hours.

18. In similar circumstances, the High Court of Bombay in ***Daud Khan v. State of Maharashtra:*** *2024 SCC OnLine Bom 3197*, had observed as under:

> "13. Further, the court so taking suo motu action, is expected to adopt prescribed summary procedure and one finds reference to this extent in the provision of Section 344 Cr.P.C. itself, which is reproduced herein-above. Once, the court is expected to adopt distinct procedure as provided above, then stages provided in summary trial are expected to be adhered to and followed, i.e. recording of plea, offering choice to accept guilt and then sufficient time is required to be given to the accused to answer the charge i.e. in order to given fair trial. Fair trial contemplates sufficient opportunity to contest and answer the indictment.
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> 16. It is also noticed that when a distinct procedure is contemplated for dealing with a person giving false evidence on oath, coupled with existence of pre-condition for initiating proceedings viz. prima facie opinion about giving false evidence and secondly, it is expedient in the interest of justice to inquire into by assigning sound reasons, scrupulous adherence to the procedure is mandated. Here, however, record shows that on the day of judgment itself, learned trial Judge formed opinion that false evidence has been given and further, trial court on same day, put appellant to show cause, followed by recording his explanation and pronouncing his guilt. Plea, as expected and mandated under summary procedure was not recorded. No breathing or sufficient time was offered to the complainant, who is a layman, to face the charge. He had been denied opportunity to be represented by a legal expert. Therefore, it is clear that in a hurried manner, learned trial Judge on the same day, formed opinion, issued show cause notice, noted explanation and even recorded guilt, followed by passing sentence. Therefore, in the considered opinion of this Court, the trial Judge circumvented procedure in conducting the proceedings and recording guilt. In fact, procedure contemplated has not been adopted or adhered to. Hence, such judgment not being good in the eyes of law, cannot be allowed to be sustained."

19. In this backdrop, it is also to be noted that the object of such proceedings is not to punish every inaccuracy or incorrect statement, but only to deal with those rare and exceptional cases where falsehood is deliberate, conscious and calculated, and where a conviction is reasonably certain and not due to lapse of memory.

20. In view of the foregoing discussion, this Court is of the considered opinion that the undue haste displayed by the learned Trial Court, coupled with the denial of legal representation to the appellant and the absence of any meaningful opportunity to show cause, entitles the appellant to acquittal and makes out a case for setting aside of the impugned judgment.

21. The appellant is accordingly acquitted, the impugned judgment is set aside, and the appeal is allowed.

22. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

SEPTEMBER 16, 2025/zp