

IN THE COURT OF Ms. MEENU KAUSHIK: DJ – 03: NEW DELHI  
DISTRICT: PATIALA HOUSE COURTS : NEW DELHI

CS No. 58565/16

CNR No. DLND010089022016



In the matter of:

Dr. Mrs. Meenakshi Dubey

Versus

Shri Pankaj Aggarwal & Anr.

**ORDER:**

1 By way of this order I shall dispose of the application u/S 340 Cr. P.C. dated 15.04.2019 moved by the plaintiff seeking to initiate appropriate action against the defendant no.1 for giving false deposition on 17.12.2018 before Ld. Local Commissioner at the time of recording evidence in the present case.

2 Arguments on the application are already heard.

3 It is submitted by ld. counsel for plaintiff that present suit is filed by plaintiff seeking permanent injunction thereby restraining the defendants from creating any third party interest or from carrying out any construction on the terrace of second floor of the suit property. It is further stated that defendant No.2 Late Mrs. Indira Aggarwal was suffering from depression and was totally in control of defendant No.1 and taking advantage of said situation, defendant No.1 had got gift deed

and Will executed from her in his favour. It is further stated that defendant No.2 was staying with defendant no.1 in Canada since 2011 and it was informed by defendant No.1 while tendering his evidence on 15.12.2018 that his mother / defendant No.2 had passed away in her sleep on 17.11.2018. In this regard, defendant No.1 had also placed on record “*proof of death certificate*” Ex. DW-1/6. It is further averred by plaintiff that on 17.12.2018 when defendant No.1 was being cross examined by ld. counsel for plaintiff, defendant No.1 was specifically asked in question no.70 as to whether any medical certificate of death was issued by relevant authorities in Canada to which defendant No.1 replied “No”. It is stated that to the question “*Whether any document was issued by relevant authorities in Canada giving the cause of death of his mother*”, defendant No.1 replied that medical information is privacy protected and hence no document indicating cause of death was issued. It is further stated that in question No.72, defendant No.1 was specifically asked whether he received any document from any authority/hospital/health department in Canada giving the cause of death, defendant No.1 stated “No”. It is further stated that to a specific suggestion given to defendant No.1 that no funeral can take place in Canada without certificate disclosing cause of death by the concerned health authorities, defendant No.1 answered that he is not aware of any such law. It is further stated that after having gone through the above deposition of defendant No.1, plaintiff found out that as per Canadian regulations, she was eligible to apply for medical certificate of death of defendant No.2 and thereafter she immediately applied for the said certificate by sending an application to office of the Registrar General, Ministry of Government Services, Ontario, Canada. It is stated that in

response to the said application, plaintiff received the medical certificate of death alongwith the statement of death from concerned authority in Canada. It is averred that from the above facts, it is apparent that defendant No.1 had deposed falsely on oath before Ld. Local Commissioner on 17.12.2018. It is further stated that medical certificate of death clearly states that the said certificate had to be filled before a burial permit can be issued. It is stated that above conduct of the defendant No.1 clearly shows that the said medical certificate of death was available with defendant No.1 on 17.11.2018 at the time when he went to the funeral home and cremation center for cremation of his mother.

4 It is further stated that defendant No.1 has given false deposition in answers to questions 70 to 74 before Ld. Local Commissioner and has deliberately tried to conceal the medical certificate of death and thus, the conduct of defendant is liable to be punished u/S 191 & 193 of IPC and thus, appropriate action u/S 340 Cr.P.C. be taken against defendant No.1.

5 Per contra, ld. counsel for defendant No.1 stated that the defendant No.1 in his cross examination dated 17.12.2018 has answered to Q. No.70, 72 & 74 denying that any document was issued to him indicating the cause of death of the mother as till the said date no such certificate/death certificate was issued. It is further stated that Ex. DW-1/6 is death certificate/ proof of death and the answer given by defendant No.1 that in Canada the medical information is privacy protected and no document indicating cause of death was issued to his knowledge was correct as the medical certificate of death was not issued till the said date and it was issued only when the same was applied for. It is further stated that defendant No.1 denied the answer for receiving any document from

any authority / hospital / health department in Canada giving cause of death of his mother during his cross examination dated 17.12.2018 as no such document was issued to defendant No.1 till said date. It is further stated that no evidence is led by plaintiff that defendant No.1 was having any such document on the said date of cross examination and this shows that the defendant No.1 did not depose incorrectly or falsely. It is further stated that as issuance of certificate of death was to be applied in Canada and plaintiff being daughter had already applied and this in itself shows that the defendant did not apply for the said document before the plaintiff and hence, whatever was deposed by defendant No.1 on the said date was correct as per his knowledge. It is further stated that in cross examination dated 27.08.2019 plaintiff confronted defendant No.1 with the medical certificate of death Ex.DW-1/P1 and statement of death Ex. DW-1/P2. It is further stated that only on the basis of the medical certificate of death which incorporates that the said form was completed by the attending physician / coroner or designated person before burial permit can be issued, plaintiff has hypothetically presumed that since defendant performed their mother's funeral on 19.11.2018, he must be in possession of the same. It is further stated that only on the basis of this hypothetical presumption, present application invoking section 340 Cr. P.C is moved which is not justified. It is further stated that in absence of any such document with the defendant at the time of cross examination on 17.12.2018 his testimony cannot be falsified and whatever was deposed by defendant No.1 on said date was true and correct and there was no falsity in his deposition and thus, in no manner it has resulted in interference of administration of justice and infact the plaintiff's allegations are based on falsehood and mere presumption. Ld. counsel for

defendant has relied upon *Daulat Singh Consulting Private Limited & others v. Gateway Rail Freight Limited & Another* (2020 SCC Online DEL 3814) wherein it is held as under:

6 *“Institution of criminal proceedings is not a trifling matter, to be resorted to, at the drop of a hat. This Court has, unfortunately, been noticing that, in civil and commercial matters, the parties are filing applications for instituting proceedings, against the opposite parties, under Section 340 Cr. P.C., without any substantial grounds justifying such institution. At times, these applications are attempts to pressurize the opposite parties and, at others, to protract the proceedings.”*

7 It is further stated that plaintiff has not produced any evidence or documents to substantiate her claim except the noting on the medical certificate of death. It is further stated that defendant was neither aware of this requirement nor had applied for the medical certificate of death and the same was seen by him only during cross examination dated 27.08.2019. It is further stated that in cross examination dated 27.08.2019 defendant no.1 clarified that he recently became aware of diagnosis of his mother. It is further stated that after last cross examination on 27.08.2019 Dr. Sood (Coroner) called him up for further investigation on mentioning of “dementia NYD” and upon such investigation “dementia NYD” was removed as it was never confirmed. It is further contended that in answer to Q.No.120, defendant No.1 had clearly stated that he has not been in receipt of medical certificate shown to him Ex. DW-1/P1 till the time a copy of this was shared with his counsel on part of the plaintiff about one month back.

8 Arguments addressed on behalf of both the parties are taken into consideration. Record perused.

9 The claim of the plaintiff is that the defendant no.1 despite having certificate of death of his mother concealed this fact in his cross examination dated 17.12.2018. It is further the contention on part of the plaintiff that as per the rules in Canada, the said document is required for performing funeral/ burial and as the last rites of their mother were performed by defendant no.1, he must be having the said document with him.

10 Contrary to this, it is claimed by the defendant no.1 that at the time of death of their mother coroner came for the examination of body of their mother but no such certificate was handed over to him. It is argued on part of defendant no. 1 that the claim of the plaintiff is only hypothetical that since in Canada burial permit is required as otherwise no permission for funeral is granted by funeral house and burial permit is given after completion of the form by the attending physician. It is further claim of defendant no.1 that in Canada such information is privacy protected and thus, is given only when it is applied for. As per the plaintiff when she came to know about the fact that she can apply for the certificate of death, she applied for the same and then the same was put in cross examination of the defendant no.1. To this, it is contended on part of defendant no.1 that he was not aware of such procedure by that time and as plaintiff had already applied for the same, it in itself shows that the defendant no.1 had not applied for the certificate by that time. The contention on part of defendant no.1 is found tenable. Plaintiff has not adduced any evidence to show that any such certificate was issued to the defendant no.1 before the relevant date of cross examination i.e. 17.12.2018. Defendant in his subsequent cross examination dated 27.08.2019 did not deny for the said certificate when the same was

confronted by the plaintiff. In conspectus of facts that the certificate of death of mother was applied by the plaintiff and the same was issued to her only when she applied for the same and that plaintiff has failed to adduce any evidence to prove that any such certificate was issue to defendant no.1 prior to the relevant date of cross examination, the claim of the defendant that he was not in possession of any certificate of death and that he did not even apply for the same are found acceptable. Thus, it cannot be held that defendant no.1 deliberately gave false deposition in his cross examination dated 17.12.2018 before Ld. Local Commissioner. Accordingly, present application stands disposed of as not allowed.

*(Announced in the open Court  
on 29<sup>th</sup> April, 2026 )*

(Meenu Kaushik)  
District Judge-03  
Patiala House Courts, New Delhi District  
New Delhi