

**IN THE COURT OF SH. SACHIN GUPTA, ADDITIONAL CHIEF  
METROPOLITAN MAGISTRATE-03, ROUSE AVENUE COURTS  
COMPLEX, NEW DELHI.**

**CNR No. DL CT 12-001170-2019**

**Bhupinder Singh vs. State (NCT of Delhi) & Ors.**

**CT Case No. 42/2019**

**06<sup>th</sup> February, 2021**

**ORDER**

Vide this order, I shall decide an application u/s. 340 Cr. P.C. r/w 195 Cr. P.C. filed on behalf of applicant/proposed accused S. Manjinder Singh Sirsa.

1. Arguments addressed by Ld. Counsel for proposed accused as well as Ld. Counsel for complainant have been heard.
2. It is submitted by the Id. Counsel for applicant/proposed accused that complainant has committed an act of perjury by making false averments and by filing forged and fabricated document alongwith his complaint/application filed u/s. 156(3) Cr. P.C. before this Court, with malafide intentions and ulterior motives for wreaking personal vendetta against the applicant. He has further submitted that though an FIR has been registered by the police on the complaint of the complainant, however, complainant has not approached this Court with clean hands and committed an act of perjury by making false averments and by filing forged documents alongwith his application u/s. 156(3) Cr. P.C before this Court. It is further submitted that complainant filed an application u/s. 156(3) Cr. P.C. before this Court on the basis of his police complaint dated 09.03.2019, which is manifested in the 'Subject' as well as 'Para number 1' of the complaint filed by the complainant. It is further submitted that

complainant has falsely mentioned the date i.e. 09.03.2019 of his police complaint at PS North Avenue in his present complaint before this Court, whereas FIR bearing no. 183/2020, PS EOW, has already been lodged on the basis of the same police complaint i.e. DD No. 23A dated 09.03.2019 PS North Avenue, New Delhi, upon the directions of the Court of Id. ACMM-04, Rouse Avenue, New Delhi, yet the complainant misrepresented and submitted fabricated complaint before this Court.

3. It is further submitted that since on the basis of the same complaint lodged vide DD No. 23A dated 09.03.2019 at PS North Avenue, FIR bearing no. 183/20 PS EOW has already been registered as per the orders of Id. ACMM-04, RACC, New Delhi, hence, on the basis of same police complaint vide DD No. 23A dated 09.03.2019, the present complaint/application of the complainant u/s 156(3) is not maintainable before this Court and the same is liable to be dismissed and complainant is liable for making false averments and filing false documents alongwith his complaint, to get an another FIR registered against the applicant on the basis of same complaint.

4. It is further submitted that complainant has filed a document which is annexed with the complaint of the complainant at page no. 17 to 23 and which is stated to be a complaint made by complainant to SHO, PS North Avenue, vide DD No. 23A dated 09.03.2019 at PS North Avenue, however, the said document is a tempered and fabricated document, wherein its first page is having paragraphs 1-5 in different font, style, spacing and contents, whereas its continuing second page has paragraph in different font, style, spacing and contents. It is further stated that even in the ATR filed by SI Vijay Pal dated 14.05.2019, it was stated that facts of the complaint which was received in PS vide DD No. 23A dated 09.03.2019 and facts of the complaint which was filed before the Court under section 156 (3) Cr. P.C. were different. It is further submitted that since complainant has made the false statement in his complaint

regarding the police complaint dated 09.03.2019 and also filed fabricated and tempered aforesaid document alongwith his complaint, therefore, complainant is liable for action for offence of perjury as per section 340 r/w 195 Cr. P.C.

5. It is further submitted that as per the Judgment of Hon'ble Supreme Court in case titled **“N. Natarajan vs. B.K. Subba Rao, (2003) 2 SCC 76”**, even a stranger to the proceedings can file an application under section 340 Cr. P.C. It is further submitted that though the law is well settled that the prospective accused persons have no locus standi in the proceedings under section 156 (3) Cr. P.C., still by effect of the abovesaid judgment of the Hon'ble Apex Court, the applicant is entitled to file the present application to bring the fraud being committed by the complainant.

6. Per contra, Ld. Counsel for the complainant has vehemently opposed the present application under consideration. He has submitted that present application filed on behalf of proposed accused is not even maintainable, who has no locus standi to participate in the proceedings at the stage of an application u/s. 156 (3) Cr. P.C. and therefore, present application filed on behalf of proposed accused is liable to be dismissed on this ground alone. He further submitted that complainant filed two separate complaints at Police Station North Avenue, one dated 09.03.2019 and another dated 19.03.2019 on the basis of different allegations; that on the basis of complaint dated 09.03.2019 vide DD no. 23A filed at PS North Avenue, FIR bearing no. 183/20 PS EOW was registered, upon the directions of the Ld. ACMM-04, RACC, New Delhi, whereas, on the basis and in furtherance of police complaint dated 19.03.2019 at PS North Avenue, which was registered vide DD no. 18A dated 19.03.2019 PS North Avenue, present complaint/application u/s. 156(3) Cr. P.C. has been filed by complainant before this Court and proposed accused/ applicant is only seeking to take benefit of a typographical error in the said application filed by the complainant in

which the date of 19.03.2019 has by mistake wrongly been mentioned as 09.03.2019.

7. Ld. Counsel for the complainant further submitted that it is only sometime before, when the complainant was going through the complaint and documents filed alongwith his present complaint, he realized that police complaint filed before this Court as document no.1 (page no. 17-23) contains an incorrect first page as much as first page relates to the police complaint filed by the complainant before PS North Avenue on 09.03.2019 and not pertains to his police complaint dated 19.03.2019 filed before PS North Avenue. It is further submitted that in his earlier application dated 17.11.2020 filed for seeking directions to the police to submit a fair copy of the said complaint filed by the complainant before PS North Avenue on 19.03.2019 vide DD No. 18-A, complainant has already brought on record the fact that for the reasons best known to him, complainant's previous counsel Mr. Kulwinder Singh committed such an error and in relation to the acts of misconduct on the part of Mr. Kulwinder Singh, complainant has already filed a complaint before Bar Council of Delhi, which is pending adjudication.

8. Ld. Counsel for the complainant further submitted that upon an application dated 17.11.2020 filed on behalf of complainant and in compliance of the order dated 09.12.2020 of this Court, SI Shikhar Chaudhary has already filed in the Court on 05.01.21, a copy of police complaint filed by the complainant before PS North Avenue vide DD no. 18A dated 19.03.2019 and also copy of DD entry no. 18A dated 19.03.2019 of PS North Avenue. It is further submitted that Action Taken Report filed by the police in the present case also pertains to the said DD No. 18A dated 19.03.2019 PS North Avenue and after completion of enquiry on the police complaint of complainant vide DD no. 18A dated 19.03.2019, an FIR bearing number 20/2021 u/s. 420/406/120B IPC, PS EOW has already been registered on 21.01.2021, which itself shows the

falsehood on the part of the applicant/proposed accused; that there was no malafide on the part of complainant, who could not have gained anything as the original complaint vide DD no. 18A dated 19.03.2019 was filed at PS North Avenue and on the basis of same complaint, FIR has been registered by the police. It is submitted that present application under section 340 r/w 195 Cr. P.C. filed on behalf of proposed accused S. Manjinder Singh Sirsa is without any merits and the same is liable to be dismissed.

9. I have heard the arguments addressed by the Id. Counsels for both the sides and carefully perused the record.

10. In the Judgment titled as “***Iqbal Singh Marwah and Anr. vs. Meenakshi Marwah & Anr., (2005) 4 SCC 370***”, Hon'ble Apex Court held that Section 195 (1)(b) (ii) Cr. P.C. would be attracted only when the offence enumerated in the said provision have been committed with respect to a document after it has been produced or given in evidence in a proceeding in any Court i.e. during the time when the document was in custodia legis.

11. Thus, ***Iqbal Singh Marwah*** (supra) is clear authority for the proposition that in cases which fall under Section 195(1)(b)(ii) of the Cr. P.C, the document that is said to have been forged should be *custodia legis* after which the forgery takes place.

12. By way of present application, the applicant has alleged that the complainant has committed perjury by filing a fabricated and tempered document alongwith his complaint, annexed with the complaint at page number 17 to 23, i.e. police complaint vide DD No. 23A dated 09.03.2019 filed at PS North Avenue. However, since, the said document was indisputably filed alongwith the complaint and no offence enumerated in the section 195 (1)(b)(ii) Cr. P.C. has been committed in respect of a document after it has been produced or given in evidence in a proceeding before this court, hence section 195 (1)(b) (ii) Cr. P.C. would not be

attracted in this case.

13. As per the version given by the complainant, it is only sometime before, he realized filing of such a document alongwith his complaint by his previous counsel, while he was going through his complaint and documents filed therewith and thereafter, upon his application dated 17.11.2020, a copy of police complaint filed by the complainant before PS North Avenue vide DD no. 18A dated 19.03.2019 , was filed by the police in the Court and it was this police complaint dated 19.03.2019 PS North Avenue vide DD No. 18A, on the basis and in furtherance of which, an application u/s. 156 (3) Cr. P.C. was filed before this Court.

14. Moreover, as per the complainant, it was due to the typographical error that date of 09.03.2019 was mentioned in place of date of 19.03.2019 of the police complaint with PS North Avenue, in his application u/s. 156(3) Cr. P.C. filed before this Court and there was no malafide on the part of complainant. Copy of aforesaid complaint filed by the complaint before PS North Avenue vide DD No. 18A dated 19.03.2019 and also copy of DD entry No. 18A dated 19.03.2019 of PS North Avenue was also filed by SI Shikar Chaudhary, PS EOW in the Court. As per the last Action Taken Report dated 25.01.2021 filed by the Joint Commissioner of Police, EOW, New Delhi, it was stated that enquiry in the present matter has been concluded and a case vide FIR No. 20/21 u/s. 420/406/120B IPC was registered on 21.01.2021 at PS EOW and investigation has been taken up.

15. In view of the aforesaid discussion and material available on record including reports/documents filed by the police, it is clear that the mentioning of date of 09.03.2019 in place of date of 19.03.2019 of police complaint by complainant at PS North Avenue, in his application u/s. 156(3) Cr. P.C. filed before this Court, appears to be a typographical error and not intentional on the part of complainant, which stands fortified by the fact that after concluding enquiry on the complaint filed by the

complainant vide DD no. 18A dated 19.03.2019, FIR bearing no 20/21 u/s. 420/406/120B IPC has already been registered on 21.01.2021 at PS EOW. Moreover, as discussed herein before, no offence enumerated in the section 195 (1)(b)(ii) Cr. P.C. has been committed in respect of a document after it has been produced or given in evidence in a proceeding before this court. Hence, the present application u/s. 340 r/w 195 Cr. P.C. filed on behalf of applicant/proposed accused S. Manjinder Singh Sirsa, is without any merits and the same is hereby dismissed.

**Announced through Video Conferencing  
today on 6<sup>th</sup> February, 2021**

(SACHIN GUPTA)  
ACMM-03/RACC,  
New Delhi/06.02.2021