



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 6TH DAY OF MARCH, 2026
BEFORE



THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM
WRIT PETITION NO. 284 OF 2024 (GM-RES)

BETWEEN:

SRI AKASH RANKA
S/O LATE MAHAVEER RANKA
AGED 42 YEARS
NO.7, 30TH CROSS, 5TH MAIN
ROAD, 4TH BLOCK, JAYANAGAR
BANGALORE - 560 011
EMAIL. AKASHRANKA@GAMIL.COM

...PETITIONER

(BY SRI RAJADITHYA SADASIVAN, ADV.)

AND:

1. SRI ASHOK S. DHARIWAL
S/O LATE SUGANCHAND DHARIWAL
AGED 71 YEARS
NO.201, 2ND FLOOR, SHARVANI
PRIDE, MARKET ROAD, BEHIND
CANARA BANK, BASAVANAGUDI
BANGALORE - 560 004
EMAIL. ASHOKDHARIWAL2457@GAMIL.COM

2. THE REGISTRAR GENERAL
HIGH COURT OF KARNATAKA
HIGH COURT BUILDINGS
OPP. TO VIDHANA SOUDHA
AMBEDKAR VEEDHI
BENGALURU - 560 001.

...RESPONDENTS

(BY SRI PARAMESHWAR N. HEGDE, ADV., FOR R-1;
SRI T.P VIVEKANANDA, ADV., FOR R-2)





THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO PLEASED TO MAKE A COMPLAINT IN WRITING TO THE FIRST CLASS MAGISTRATE U/S 340 RT/W 195 Cr.PC FOR OFFENCES UNDER SEC 199 AND 209 IPC, COMMITTED BY THE RESPONDENT WHICH ARE PUNISHABLE U/S 193 AND 209 OF IPC AND FOR SUCH OTHER ORDER, DIRECTION AND DECLARATION AS THIS HONBLE COURT MAY DEEM FIT IN THE FACTS AND CIRCUMSTANCES OF THE CASE.

THIS PETITION, COMING ON FOR PRELIMINAR HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

The captioned petition is filed under Section 340(2) of Code of Criminal Procedure, 1973 (for short 'Cr.P.C') read with Article 227 of the Constitution of India to direct the Registrar to make a complaint in writing to the I Class Magistrate under Section 340 read with Section 195 of Cr.P.C. for offences punishable under Sections 199 and 209 of Indian Penal Code, 1860 (for short 'IPC')

2. The facts leading to the case are as under:



Petitioner has invoked Section 340(2) of Cr.P.C. on the ground that respondent has falsely instituted a suit in O.S.No.4120/2022 suppressing the culmination of arbitral process and dismissal of appeal under Section 37(2) of Arbitration and Conciliation Act, 1996. The gist of the complaint is that since respondent withdrew the suit, petitioner had no occasion to initiate appropriate proceedings under Section 340(1) of Cr.P.C. before the City Civil Court alleging commission of offences affecting the administration of justice. The petitioner contends that while maintaining an application under Section 340(2) of Cr.P.C., the civil Court became *functus officio* in view of the withdrawal of the suit, consequently, petitioner was deprived of the opportunity to move an application under Section 340(1) of Cr.P.C. before the very Court in which alleged suppression and abuse had occurred. On this premise, petitioner maintains that the withdrawal of the suit should not defeat his right to seek action for perjury and suppression of material facts and therefore, the only



remedy left with petitioner is to approach this Court under Section 340(2) of Cr.P.C.

3. Heard the learned counsel for the petitioner and learned counsel appearing for respondent. Perused the records.

4. The following points would arise for consideration:

"(i) Whether an application under Section 340(2) of Cr.P.C. is maintainable and can be entertained by this Court in respect of offences alleged to have been committed in O.S.No.4120/2022 notwithstanding the subsequent withdrawal of the suit in which offences are alleged to have occurred?

(ii) Whether the withdrawal of the suit by the respondent renders the City Civil and Sessions Judge *functus officio* so as to denude



of its jurisdiction to initiate proceedings under
Section 340(2) of Cr.P.C.?

(iii) What Order?"

Finding on Point No.(i) & (ii):

5. The petitioner's primary grievance is that respondent had instituted a suit in O.S.No.4120/2022 by deliberately suppressing material facts. According to the petitioner, the dispute between the parties has already culminated in arbitral proceedings in A.C.No.70/2014. Aggrieved by the award, petitioner asserts that respondent filed Section 34(1) application, which also came to be rejected. It is further stated that respondent preferred an appeal before this Court and the appeal was also dismissed in MFA.No. 7923/2015. It is only after dismissal of the appeal by this Court, the respondent suppressing all the earlier proceedings, filed a suit in O.S.No.4120/2022 seeking same reliefs.



6. The petitioner has approached this Court on an assumption that he is left remediless in view of withdrawal of the suit and since, the suit was withdrawn before City Civil Court, petitioner's remedy lies before this Court under Section 340(2) of Cr.P.C.

7. Before this Court proceeds, it would be apposite for this Court to cull out Section 340 of Cr.P.C. which 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."



8. A careful reading of Section 340(1) of Cr.P.C. makes it abundantly clear that the legislature has consciously employed the expression "in or in relation to a proceedings in that Court". The use of the words "in" as well as a wider phrase "in relation to" is of considerable significance. The expression "in" would ordinarily connote acts committed during the course of proceedings pending before the Court. However, the phrase "in relation to" is of much wider import and cannot be given a narrow or restrictive construction. In a literal and ordinary meaning the wordings "in relation to" encompasses acts having a nexus connection or a reference to judicial proceedings, whether such proceedings are pending, concluded or otherwise withdrawn at the instance of the party who has initiated the proceedings. The legislature by deliberately expanding the phrase beyond the narrowed expression "during pending proceedings" has clearly indicated that Court's jurisdiction under Section 340 of Cr.P.C. is not circumscribed by the stage or survival of the proceedings.



Had the legislature intended to confine the power only to pending proceedings, it would have expressly employed limiting words to that effect.

9. Therefore, even if the original proceedings stand disposed either on merits or is withdrawn at the instance of the plaintiff/respondent, the Court retains jurisdiction to entertain and decide the application under Section 340(1) of Cr.P.C., since the statutory trigger is the commission of the offence in or in relation to a particular proceedings and not the pendency of the original proceedings.

10. Merely because the respondent has withdrawn the suit, the petitioner is not rendered remediless nor precluded from invoking the jurisdiction of the Court under Section 340(1) of Cr.P.C. The power under Section 340 of Cr.P.C. read with Section 195(1)(b) is not dependant on the subsistence of the original civil proceedings, rather, it is a statutory mechanism to safeguard the purity and



sanctity of the judicial proceedings. An allegation of perjury, fabrication of evidence or deliberate suppression of material facts strikes at the administration of the justice itself and constitutes an offence against the public justice and not merely against an individual litigant. Therefore, even if a suit in which false statements are allegedly made, are withdrawn by the plaintiff, if it is expedient in the interest of justice, the Court *suo moto* under Section 340(1) of Cr.P.C. or at the instance of the party under Section 340(2) of Cr.P.C. by filing an application, can initiate proceedings.

11. Consequently, this Court is of the view that merely because the suit was withdrawn, the petitioner could not have knocked the doors of this Court on the premise that this Court being an appellate authority under Section 341 of Cr.P.C. an application under Section 340(2) of Cr.P.C. can be maintained before this Court. The present petition is misconceived. This Court is of the view



that petitioner is not precluded in filing a 340(2) of Cr.P.C. application before the very Court where perjury is alleged.

Conclusions:

- (a) The expression "in or in relation to a proceeding in that Court" occurring in Section 340(1) Cr.P.C. is of wide amplitude and must be given its plain and literal meaning.
- (b) The word "in" refers to offences committed during the course of judicial proceedings, whereas the phrase "in relation to" expands the scope to include acts having a direct nexus or connection with such proceedings.
- (c) The legislature has consciously not restricted the applicability of Section 340(1) Cr.P.C. to pending proceedings; no limiting words such as "during pendency" are employed in the provision.



(d) The jurisdiction of the Court under Section 340(1) Cr.P.C. is triggered by the commission of an offence affecting administration of justice, and not by the survival or continuation of the original lis.

(e) Withdrawal, dismissal, compromise, or disposal of the original suit does not render the Court *functus officio* for the limited purpose of examining whether it is expedient in the interest of justice to initiate prosecution.

(f) Proceedings under Sections 195 and 340 Cr.P.C. are independent and distinct from the main proceedings and are aimed at preserving the sanctity of judicial process.

(g) Consequently, an application under Section 340(1) Cr.P.C. is maintainable even after the conclusion or withdrawal of the original proceedings, provided the alleged offence was committed in or in relation to such proceedings.



12. Reserving liberty, this Court proceeds to pass the following:

ORDER

- (i) Writ petition is ***disposed of***.
- (ii) Liberty is reserved to the petitioner to file appropriate application if he chooses to do so. If such an application is filed, the time spent before this Court shall be excluded by extending the benefit under Section 14 of the Limitation Act, 1963.

**SD/-
(SACHIN SHANKAR MAGADUM)
JUDGE**

ALB
List No.: 2 Sl No.: 19