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* IN THE HIGH COURT OF DELHI AT NEWDELHI

Reserved on: July 21, 2022

Decided on: September 19, 2022

+ W.P.(CRL.) NO. 1598/2022 & CRL .M.A. 13903/2022

SARVJEET SINGH

....Petitioner

Through: Mr. Amish Aggarwala,
Advocate.

V

STATE(NCT OF DELHI) & ANR.

.....Respondents

Through: Mr. Karan Jeet Rai Sharma,
Advocate for R-1 with SI
Meenu, P.S. Tilak Nagar.

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CORAM:

HON'BLE MR. JUSTICE SUDHIR KUMAR JAIN

JUDGMENT

1. The present petition is filed under section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the “Cr.P.C.”) read with Article 226 of Constitution of India for setting aside the impugned order dated 31.03.2021 passed in CIS No. 1063/2020 titled as **State V Sarvjeet Singh** whereby the application under section 340 Cr.P.C. read with section 195 Cr.P.C. filed by the petitioner was dismissed by the Court of Ms. Sonam Gupta, MM(Mahila Court-02),

West, Tis Hazari Courts, Delhi (hereinafter referred to as the “**trial Court**”) and judgment dated 28.02.2022 passed by the Court of Shri Pooran Chand, Additional Sessions Judge-02, West, Tis Hazari Courts, Delhi (hereinafter referred to as the “**Appellate Court**”) in Criminal Appeal No. 78/2021 titled as **Sarvjeet Singh V Jasleen Kaur** filed by the petitioner.

2. FIR bearing No. 1244/2015 dated 23.08.2015 was got registered under sections 354A/509 of the Indian Penal Code, 1860 (hereinafter referred to as the “**IPC**”) on the basis of complaint made by the respondent No. 2 pertaining to the incident stated to be happened on 28.08.2018 on the allegations as mentioned in FIR wherein the petitioner was implicated. The petitioner vide judgment dated 28.09.2019 was acquitted after giving benefit of doubt for the offences punishable under sections 354A/506/509 IPC after conclusion of trial. The trial Court observed that non-examination of eye-witnesses who could have supported the case of the prosecution cast a serious doubt on the case of the prosecution, in the facts and circumstances of the case when the version of the respondent no. 2 is itself doubtful.

3. The petitioner filed an application under section 340 Cr.P.C. read with section 195 Cr.P.C. for initiating criminal enquiry against the respondent no. 2 for offences punishable under sections 182/193/209/211 IPC wherein it is stated that the petitioner is a victim of media trial in a frivolous complaint filed by the respondent no. 2. The eye-witnesses supported the case of the petitioner in their oral testimony and other credible and impeachable electronic evidence were also produced to support the version of the petitioner. The respondent no. 2 has committed offences punishable under sections 182/193/195/209/211 IPC against the petitioner. The respondent no. 2 was legally bound by oath to state the true facts during her testimony dated 01.12.2018 but made false statement to implicate the petitioner.

4. The trial Court vide order dated 31.03.2021 has dismissed the application by observing that the application under section 340 Cr.P.C. is not attracted in case of any improvement in the testimony of the respondent no. 2 or any improvement surfaced during the cross-examination of the respondent no. 2 which could have been on account of passage of time. It cannot be stated that the respondent

no. 2 has made false statement to implicate the petitioner even if the petitioner was acquitted after conclusion of trial.

5. The petitioner against the order dated 31.03.2021, filed a Criminal Appeal bearing No. 78/2021 titled as **Sarvjeet Singh V Jasleen Kaur** which was dismissed vide order dated 28.02.2022 by the Appellate Court by observing that there was no material irregularity and illegality in the impugned order.

6. The petitioner being aggrieved, filed the present petition and challenged the order dated 31.03.2021 passed by trial Court and judgment dated 28.02.2022 passed by the Appellate Court on the grounds that the Courts below have erred in passing the impugned orders/judgments without considering the material facts and circumstances of the case and have proceeded on an incorrect application of law. The impugned orders/judgments have been passed in complete disregard of the provisions of law. The respondent no. 2 was legally bound by oath to state the truth during her testimony recorded on 01.12.2018, however, the respondent no. 2 made false statement in order to implicate the petitioner. The respondent no. 2 is liable to be punished for offences under sections

193/195/209/211 IPC. The respondent no. 2 has misused the law to her advantage. The petitioner was subjected to the media trial and his life has been completely ruined due to the acts of the respondent no.2. The petitioner has also challenged the impugned orders on other grounds as mentioned in the present petition. It was prayed that the present petition be allowed and the impugned order/judgment be set aside.

7. The counsel for the petitioner in the oral arguments as well as in the written submissions has reiterated the facts and grounds as stated in the present petition which are duly considered.

8. The Additional Public Prosecutor for the State/respondent no.1 argued that the present petition is not maintainable.

9. It is apparent from the record that the petitioner was acquitted vide judgment dated 28.09.2019 after giving benefit of doubt. The trial Court has also observed that as no public witness was examined in the present case and as such, under the given facts and circumstances of the case, the version of the respondent no. 2 has become doubtful.

9.1 The trial Court while disposing of the application under section 340 Cr.P.C. also observed that if the petitioner was acquitted after giving benefit of doubt, it does not mean that the respondent no. 2 has made false statement to implicate the petitioner and if the Investigating Officer has not examined or included eye-witnesses in the investigation, it does not mean that the provisions under section 340 Cr.P.C. is attracted. The trial Court also observed that if any improvement in the testimony of the respondent no. 2 is made or any improvement is surfaced, it does not give a right to the petitioner to attract the provisions under section 340 Cr.P.C.

9.2 The Appellate Court also observed that order dated 31.03.2021 is reasoned and is not suffering from any material irregularity and illegality. The Appellate Court also observed that if the provisions of section 340 Cr.P.C. is construed liberally then every acquittal would attract section 340 Cr.P.C. It was further observed that the Courts are under obligation to use the provisions of section 340 Cr.P.C. with utmost care and caution.

10. The order dated 31.03.2021 passed by the trial Court and judgment dated 28.02.2022 passed by the Appellate Court are well-

reasoned and both the Courts have rightly held that the mere acquittal of the petitioner after giving benefit of doubt does not attract section 195 IPC and other offences and the preliminary enquiry as contemplated under section 340 Cr.P.C. The trial Court while acquitting the petitioner, has not given any finding that the respondent no. 2 has made false statement on oath during the trial before the Court. The anxiety of the petitioner can be very well understood as the respondent no. 2 has published the incident in the media which might have caused loss of reputation to the petitioner. However, the mere loss of reputation is not sufficient to attract the provisions under section 340 Cr.P.C. The arguments advanced by the counsel for the petitioner and the judgments relied upon are also considered in the right perspective.

11. The present petition is devoid of merit, hence, dismissed. However, the petitioner shall be at liberty to initiate appropriate legal proceedings for the defamation alleged to have been caused by the respondent no. 2 towards the petitioner by lodging the present FIR in accordance with law or by initiating any other remedy as provided

under law. The application under section 340 Cr.P.C. is not maintainable under the given facts and circumstances of the case.

12. The present petition alongwith pending applications, if any, stands dismissed.

**SUDHIR KUMAR JAIN
(JUDGE)**

SEPTEMBER 19, 2022

N/KG

