



IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR

ON THE 21st OF SEPTEMBER, 2026

CRIMINAL APPEAL No. 1559 of 2009

ARJUN PRASAD TRIPATHI

Versus

THE STATE OF MADHYA PRADESH

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Appearance:

Shri Ramanath Dwivedi - Advocate for the appellant.

Shri Abhinav Shrivatava - Advocate for the appeared for respondent .
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ORDER

This criminal appeal under Section 341 of the Code of Criminal Procedure, 1973 is filed assailing the order dated 28.07.2009 passed by the learned first Additional Sessions Judge, Rewa in M.Cr.C. No.15/1993, whereby a direction was issued to file complaint for prosecution of the appellant - Arjun Prasad Tripathi for offence punishable under Section 193 of the IPC and the appellant was directed to appear before the Chief Judicial Magistrate, Rewa.

2. The facts of the case, in brief, are that Arjun Prasad Tripathi (the appellant) submitted a written complaint to the Deputy Superintendent of Police, Lokayukt Organization, Rewa on 23.3.1987 inter alia alleging that he had applied for earned leave for 15 days on 24.12.1986. Kunjan Lal Raikwar, working as Assistant Grade - II in Divisional Officer of the MPEB demanded illegal gratification of Rs.200/- from him for forwarding his application and clearance of bills. Accordingly, a trap was organised and



Kunjan Lal Raikwar was apprehended. Phenolphthalein tainted currency note of Rs.200/- was recovered at the instance of Kunjan Lal Raikwar. The Special Police Organisation Lokayukt submitted final report for prosecution of Kunjan Lal Raikwar under Section 161 of the IPC and Sections 5 (1)(d) and 5 (2) of the Prevention of Corruption Act, 1947 before the Special Judge under the Prevention of Corruption Act, Rewa.

3. Learned Special Judge (under the Prevention of Corruption Act), Rewa, on completion of the trial, convicted Kunjar Lal Raikwar for offences punishable under Section 161 of the IPC and Section 5 (1)(d) of the Prevention of Corruption Act. Learned Special Judge in paragraph 28 of the Judgment of conviction dated 30.09.1993 passed in Special Case No.8/1988 observed that the complainant Arjun Prasad Tripathi had given false statement before the trial Court. Therefore, MJC under Section 340 of the Cr.P.C. be registered and show-cause notice be issued against Arjun Prasad Tripathi.

4. The convict Kunjar Lal Raikwar preferred an appeal assailing the judgment of conviction and order of sentence dated 30.09.1993 before the High Court, which was allowed and Kunjan Lal Raikwar was acquitted *vide* judgment dated 28.03.2006 passed in CRA No.979/1993. However, it was observed in paragraph 6 of the judgment that the Hon'ble Court do not wish to interfere with the direction of the trial Court relating to prosecution of complainant Arjun Prasad Tripathi for giving false evidence and directed that authorities shall initiate action against the complainant in accordance with law. Accordingly, MJC No.15/1993 was proceeded with against the



appellant - Arjun Prasad Tripathi. The first Additional Sessions Judge, Rewa *vide* order dated 28.07.2009, after hearing him on notice issued under Section 340 of the Cr.P.C., directed prosecution of the appellant for offence punishable under Section 193 of the IPC.

5 . Feeling aggrieved with the impugned order, the present appeal is preferred assailing the order dated 28.07.2009, on the following grounds:

- (a) The impugned order is bad in law passed without proper appreciation of facts of the case. There is gross violation of principles of natural justice;
- (b) Notice does not contain the cause for initiation of proceeding against the appellant. The Court failed to appreciate that the proceeding for false evidence cannot be initiated against the appellant for his deposition which is different from his police statement;
- (c) The trap in the case relates to the year 1988 and the evidence was recorded after a long time, therefore, the omission and contradiction occurred because of lapse of memory. The proceeding of perjury cannot be initiated for such omission. The offence punishable under Section 193 is not made out against the appellant. On these grounds, it is requested that the impugned order dated 28.07.2009 be set aside.

6 . Learned counsel for the appellant, in addition to the grounds mentioned in the appeal, contends that the appellant has specifically explained the reasons for departure from his previous statement in his reply. The previous statement was not recorded as per his instructions. He was asked to sign statement in a hurry. The statement was not read over and explained to him. Therefore, the appellant cannot be prosecuted for his departure from his previous statement. The appellant has deposed before the trial Court true incidence that had transpired on the date of trap. Therefore, the impugned order suffers from impropriety and illegality.

7 . *Per contra*, learned counsel for the respondent submits that the trial



Court as well as the first appellant Court has specifically concluded that the appellant had given false statement before the trial Court which ultimately resulted in acquittal of accused Kunjar Lal Raikwar. The appeal is meritless.

8. Heard both the parties and perused the record.

9. The point for determination in present appeal is as under-

- (i) Whether learned first Additional Sessions Judge committed an error in directing the prosecution of the present appellant for offence punishable under Section 193 of the IPC?

The point for determination- Reasons for conclusion-

10. The Supreme Court in case of *Himanshu Kumar v. State of Chhattisgarh*, reported in (2023) 12 SCC 592, observed as under -

79. The law under Section 340CrPC on initiating proceedings has been laid down in several of our judgments. Thus in *Chajoo Ram v. Radhey Shyam*, (1971) 1 SCC 774, this Court, in para 7, stated as under :

“7. ... No doubt giving of false evidence and filing false affidavits is an evil which must be effectively curbed with a strong hand but to start prosecution for perjury too readily and too frequently without due care and caution and on inconclusive and doubtful material defeats its very purpose. Prosecution should be ordered when it is considered expedient in the interests of justice to punish the delinquent and not merely because there is some inaccuracy in the statement which may be innocent or immaterial. There must be prima facie case of deliberate falsehood on a matter of substance and the court should be satisfied that there is reasonable foundation for the charge.”

81. Both the aforesaid judgments were referred to and relied upon with approval in *R.S. Sujatha v. State of Karnataka*, (2011) 5 SCC 689. This Court, after setting down the law laid down in these two judgments [*Chajoo Ram v. Radhey Shyam*, (1971) 1 SCC 774]· [*Chandrapal Singh v. Maharaj Singh*, (1982) 1 SCC 466] concluded:

“18. Thus, from the above, it is evident that the inquiry/contempt proceedings should be initiated by the court in exceptional circumstances where the court is of the opinion that perjury has been committed by a party deliberately to have some beneficial order from the court. There must be grounds of a nature higher than mere surmise or suspicion for initiating such proceedings. There must be distinct evidence of the commission of an offence by such a person as mere suspicion cannot bring home the charge of perjury. More so,



the court has also to determine as on facts, whether it is expedient in the interest of justice to inquire into the offence which appears to have been committed.”

82. It is clear through from a reading of the aforesaid judgments that there should be something deliberate — a statement should be made deliberately and consciously which is found to be false as a result of comparing it with unimpeachable evidence, documentary or otherwise.

84. This Court in Muthu Karuppan v. Parithi Ilamvazhuthi, (2011) 5 SCC 496, has held as under :

“15. Giving false evidence by filing false affidavit is an evil which must be effectively curbed with a strong hand. Prosecution should be ordered when it is considered expedient in the interest of justice to punish the delinquent, but there must be a prima facie case of “deliberate falsehood” on a matter of substance and the court should be satisfied that there is a reasonable foundation for the charge.

16. In a series of decisions, this Court held that the enquiry/contempt proceedings should be initiated by the court in exceptional circumstances where the court is of the opinion that perjury has been committed by a party deliberately to have some beneficial order from the court. There must be grounds of a nature higher than mere surmise or suspicion for initiating such proceedings. There must be distinct evidence of the commission of an offence by such a person as mere suspicion cannot bring home the charge of making false statement, more so, the court has to determine as on facts whether it is expedient in the interest of justice to enquire into offence which appears to have been committed.”

87. We may also refer and reply upon the decision of this Court in Aarish Asgar Qureshi v. Fareed Ahmed Qureshi, (2019) 18 SCC 172, wherein this Court discussed and explained the necessary requirements for the purpose of initiation of proceeding under Section 340 read with Section 195(1)(b)CrPC. This Court laid much emphasis on two words, namely, “deliberate” and “intentional”. This Court talked about the requirement of impeachable evidence for the purpose of initiation of proceedings. In other words, this Court took the view that a statement should be made deliberately and consciously and the same should be found to be false as a result of comparing it with unimpeachable evidence, documentary or otherwise.

11. Thus, a complaint under Section 340 CrPC will be made when-

1. A witness intentionally and deliberately gives false evidence.
2. The false evidence was material to the case.
3. The Court finds it expedient in the interest of justice to prosecute such witness.

The record of Special Case No. 8/1988 reveals that the complainant,



Arjun Prasad Tripathi, had submitted claims relating to travelling allowance and leave encashment. In his written complaint to the Special Police Establishment (Exhibit P-7), he alleged that Kunjan Lal Raikwar, a clerk in the office of the Sub-Divisional Engineer, MPEB, Rewa Division, had demanded ₹200 as illegal gratification for clearing those claims. A trap was accordingly arranged. The complainant furnished two currency notes of ₹100 each, which were treated with phenolphthalein powder. According to the prosecution case, Arjun Prasad handed the treated currency notes to Kunjan Lal in the corridor of the office, whereupon Kunjan Lal accepted them and placed them in the right pocket of his trousers. After the complainant gave the pre-determined signal to the trap team. Meanwhile, accused Kunjan Lal went towards toilet. The trap team apprehended Kunjan Lal. The traces of phenolphthalein were found on hands and pocket of trouser of Kunjan Lal. The tainted currency notes were recovered from a matchbox lying near the toilet on his disclosure of Kunjan Lal. Other relevant papers were also recovered from him.

1 2 . The complainant Arjun Prasad Tripathi (PW 2) partly supported the prosecution about his complaint and trap proceeding, but resiled from his allegation regarding payment of bribe, *i. e.* handing over the phenolphthalein coated currency notes to the accused and receipt of the tainted currency notes by the accused. The complainant Arjun Prasad gave inconsistent version of the incident regarding handing over and receipt of tainted currency notes, in his evidence which ultimately resulted in acquittal of Kunjan Lal in the appeal.

1 3 . The trial Court as well as the Appellate Court, concurred that



proceeding against complainant Arjun Prasad for giving false evidence, is imperative.

14. The learned First Additional Sessions Judge, Rewa, observed that Arjun Prasad Tripathi had made materially inconsistent statements regarding the handing over and acceptance of the phenolphthalein-treated currency notes. In his deposition, the appellant denied having handed over the tainted currency notes to Kunjan Lal Raikwar or that the latter had kept them in the pocket of his trousers. The traces of phenolphthalein were found on hand and pocket of trouser of Kunjan Lal. Apparently, the deposition of Arjun Prasad stands belied by other substantive material on record. His explanation, in the reply, was found unconvincing that he had signed the police statement and other prosecution documents in hurry without reading them. Learned First Additional Sessions Judge correctly recorded that Arjun Prasad had intentionally and deliberately given false evidence. Obviously, the evidence of complainant was material to the outcome of the case. Learned enquiry Court, committed no error in concluding that *prima facie* case is made out to proceed against Arjun Prasad Tripathi for offense punishable under section 193 of IPC.

15. The conclusion of learned First Additional Sessions Judge is based on proper appreciation of material on record. Therefore, no reason is available to interfere in the impugned order.

16. The present appeal, being devoid of merit, is **dismissed**.

(SANJEEV S KALGAONKAR)
JUDGE



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