

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO. 5490 OF 2024
[@ SPECIAL LEAVE PETITION (CRL.) NO. 6845 OF 2024]**

ANIL KUMAR J. BAVISHI

Appellant(s)

VERSUS

**MAHENDRA KUMAR JALAN
@ M.K. JALAN**

Respondent(s)

ORDER

Leave granted.

Presently, we have a case before us where the appellant has challenged the order of the High Court dated 05.02.2024 passed on an application under Section 482 Cr.P.C., whereby the High Court has declined to grant relief to the appellant for the reason that what the appellant sought was that his private complaint, which has been made before the Chief Metropolitan Magistrate, Calcutta, for alleged offences committed at the hands of the respondent under Sections 193/199/200 IPC, be allowed. The High Court declined the relief for the reasons that such a complaint under Cr.P.C. can only be made on directions of the

court concerned.

The only question therefore before us is whether such a complaint can be made only by orders of the court, as contemplated under Section 195 read with Section 340 Cr.P.C. or it can also be entertained as a private complaint.

For a ready reference, the offences which the appellant allegedly committed are under Sections 193/199/200 of the Indian Penal Code, which read as under :-

“Section 193. Punishment for false evidence - *Whoever intentionally gives false evidence in any of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may*

extend to three years, and shall also be liable to fine.

Section 199. False statement made in declaration which is by law receivable as evidence -

Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

Section 200. Using as true such declaration knowing it to be false -

Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.”

Now, a bare perusal of the above Sections shows that the offences mentioned therein can be committed, either before a court or at any other place as well. Section 195 read with Section 340 Cr.P.C. prescribes a definite route which has to be mandatorily followed if such an offence is alleged to have been committed before a court. But this would not mean that a person is without remedy when such an offence is committed outside the court i.e. in any other forum, such as a Tribunal, which may not be a court, like in the present case.

The offences were allegedly committed before a Tribunal known as Municipal Building Tribunal. It is an admitted fact that this Tribunal is not defined as a Court.

The precise case of the appellant is that since the “act” or the offence is not before a court, the only remedy for him now is to file a Private Complaint. It is true that in his first round of litigation, he had moved an application that the court may take a cognizance of it and filed a complaint under Section 195 read with

Section 340 Cr.P.C., which the Tribunal as well as the High Court had declined.

In the second round of litigation, the appellant filed a private complaint, on which the cognizance was taken but the respondent, who allegedly committed the offence, invoked the inherent jurisdiction of the High Court under Section 482 Cr.P.C., wherein it was argued that for these offences a private complaint cannot be filed and the law prescribes a definite path to be followed here which is laid down in Section 195 read with Section 340 of Cr.P.C.

The High Court came to the conclusion that the offences alleged to have been committed were those offences, on which the complaint could have been filed only by the court or the orders of the court prescribed under Section 195 Cr.P.C. and thereafter, the procedure under Section 340 Cr.P.C. has to be followed and, therefore, the application under Section 482 Cr.P.C. was allowed, the complaint was quashed.

Before us, the appellant has confined his arguments only under Sections 193, 199 and 200 IPC.

We have absolutely no doubt in our mind that an offence under Section 193/199/200 can theoretically be committed inside as well as outside a court. It is an admitted case that the proceedings which are taking before the Tribunal is not a Court, as defined under the law. Therefore, it was not empowered to entertain such an application as prescribed under the law under Section 195 read with Section 340 Cr.P.C. The only way such an application can be entertained and that too, for the precise offences of Sections 193, 199 and 200 is through a private complaint and only relating to the offences before the Tribunal. We may refer here a decision of this Court in **Iqbal Singh Narang & Ors. Vs. Veeran Narang** reported in **(2012) 2 SCC 60** wherein under similar circumstances it was held that the only solution in such cases for a Tribunal (which is not a Court) is to entertain a private complaint.

We are of the considered view that in the present case the only route available for the appellant was to file a private complaint, and the Tribunal rightly had entertained such a complaint. The impugned order

dated 05.02.2024 passed by the High Court is hence set aside. The complaint shall be entertained by the concerned Tribunal and thereafter, the orders shall be passed. We make it absolutely clear that we have allowed this application only on a technicality and a question of law. The fate of the complaint would lie on its merits to be decided by the Tribunal.

In view of above, the appeal is allowed.

Pending interlocutory application(s), if any, is/are disposed of.

.....J.
[SUDHANSHU DHULIA]

.....J.
[AHSANUDDIN AMANULLAH]

New Delhi;
DECEMBER 19, 2024.

ITEM NO.17

COURT NO.14

SECTION II-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Cr1.) No. 6845 of 2024

(Arising out of impugned final judgment and order dated 05.02.2024 in CRR No. 1600 of 2017 passed by the High Court at Calcutta)

ANIL KUMAR J. BAVISHI

Appellant(s)

VERSUS

MAHENDRA KUMAR JALAN @ M.K. JALAN

Respondent(s)

(IA No. 115401/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 19-12-2024 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SUDHANSHU DHULIA
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

For Appellant(s) Mr. Vikash Singh, AOR
Mr. S. Hariharan, Adv.
Mr. K. M. Kalidharun, Adv.

For Respondent(s) Mr. Siddarth Luthra, Sr. Adv.
Mr. Somopriyo Chowdhury, Adv.
Ms. Pritha Basu, Adv.
Mr. Ashish Choudhury, AOR
Mr. Akash Agarwal, Adv.
Mr. Debartha Chakraborty, Adv.
Mr. Sougati, Adv.
Mr. Anand Kamal, Adv.
Mr. Abhishek Arora, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending interlocutory application(s), if any, is/are disposed of.

(JAYANT KUMAR ARORA)
ASST. REGISTRAR-CUM-PS

(RENU BALA GAMBHIR)
ASSISTANT REGISTRAR

(Signed order is placed on the file)