

HIGH COURT OF DELHI: NEW DELHI

NOTIFICATION

No.127/Rules/DHC

Dated: 14.03.2011

In exercise of powers conferred by Section 7 of the Delhi High Court Act, 1966 (Act 26 of 1966) read with Article 227 of the Constitution of India and all other powers enabling it in this behalf, the High Court of Delhi, with the prior approval of the Lt. Governor of the Govt. of National Capital Territory of Delhi, hereby makes the following amendment in Part-A of Chapter 8 of the High Court Rules and Orders, Volume III, namely:-

THE FOLLOWING SHALL BE SUBSTITUTED FOR THE EXISTING RULE 3 :-

“3. Expediency and interests of justice—the main consideration—The main point which the Court has to consider in initiating proceedings under Section 340 of the Code is whether it is expedient in the interests of justice that an inquiry should be made and a complaint filed. The mere fact that there is reason to believe that an offence has been committed is by itself not sufficient to justify a prosecution. The objective is to prevent abuse of process of Court by use of perjury. The Court is empowered to hold a preliminary inquiry but it is not peremptory. Even without a preliminary inquiry the Court can form an opinion when it appears that an offence has been committed in relation to a proceeding in that Court. Sub-section (1) of Section 340 does not contemplate that the Court should give a finding whether any particular person is guilty or not. In fact no expression on the guilt or innocence of person should be made by the Court while passing the order under Section 340 of the Code. The purpose of inquiry, even if the Court ought to conduct it, is only to decide whether it is expedient in the interest of justice to inquire into the offence which appears to have been committed. It is not mandatory that person concerned should be called upon to give any explanation before ordering his prosecution. [Ref.: (1) *M.S. Shriff and anr. V. State of Madras and ors.*; AIR 1954 SC 397 and (2) *Pritish V. State of Maharashtra*, AIR 2002 SC 236].”

NOTE: THIS AMENDMENT SHALL COME INTO FORCE FROM THE DATE OF ITS PUBLICATION IN THE GAZETTE.

BY ORDER OF THE COURT
Sd/-
(V.P. VAISH)
REGISTRAR GENERAL

Amendment stands published in Delhi Gazette Extraordinary, Part IV, No. 47 (NCTD No. 302) dated 14.03.2011