

**TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL  
NEW DELHI**

**DATED 9<sup>th</sup> JANUARY, 2006**

**M.A. No.201 of 2005**

IN

**PETITION NO.10(C) OF 2005**

Moon Network Pvt. Ltd.  
1/47, Hotel East Lite  
Delhi Gate, Agra  
....Petitioner

Versus

Set Discovery  
160 AS-2, Sehior Plaza,  
2<sup>nd</sup> Floor, Gautam Nagar,  
New Delhi – 110 049  
....Respondent

**BEFORE:**

**HON'BLE MR. JUSTICE N. SANTOSH HEGDE,  
CHAIRPERSON**

**MR. VINOD VAISH, MEMBER  
LT. GENERAL D.P. SEHGAL (RETD.), MEMBER**

For Petitioner in M.A. 201/05 : Ms. Vaishalee Mehra, Advocate

For Respondent in M.A. 201/05 : Mr. Arun Kathpalia with  
(Petitioner in main Petition) Mr. Susmit Pushkar, Advocates for  
Bajpai & Co.

For Set Discovery : Mr. Aditya Narain, Avocate  
(Respondent in main petition)

**ORDER**

This is an application filed under Section 340 of the Code of Criminal Procedure read with Sections 192, 193, 196 and 463-465 of the Indian Penal Code, read with Section 16 of the Telecom Regulatory Authority of India Act, 1997 for the prosecution of the Respondents named in Petition No.10(C) of 2005, namely Shri Surjit Singh and Shri Rahul Paliwal. The basis of the complaint is that the said persons fabricated a letter dated 12<sup>th</sup> February, 2005 by forging the signature of the applicant herein. It is also alleged that the said fabricated and forged letter was presented to this Tribunal as a piece of evidence to show that there was a declaration by the applicant in regard to certain factual aspects which were in fact not true. On the basis of the above factual averment, it is pleaded that the Respondents named above have committed an offence under Chapter XI of the Indian Penal Code, Hence, this application under Section 340 of the Criminal Procedure Code is moved by the Petitioner herein, who is not a party to the main proceedings, to take appropriate steps. In this Petition notices have been issued and persons named in the Petition have responded by filing their reply and have denied the allegation of fabrication and forgery levelled against them. They have asserted that the alleged fabricated letter dated 12<sup>th</sup> February, 2005 was in fact faxed to them by the Petitioner herein. Hence, they prayed that this Petition be dismissed.

The learned counsel appearing for the parties to this Petition have relied upon some Judgments of the Hon'ble Supreme Court of India, like in the case of Iqbal Singh Marwah and Another Vs. Meenakshi Marwah and Another [(2005) 4 SCC 370] and Surjit Singh and Others Vs. Balbir Singh [(1996) 3 Supreme Court Cases 533] etc. But we do not think that it is necessary for us to go into the law laid down by the apex court in those cases for the purpose of the disposal of this Petition.

Having perused the pleadings in this Petition and having heard the arguments addressed on behalf of the learned counsel, we are of the considered opinion that it is not necessary for this Tribunal to invoke the provisions of Section 340 of Cr.PC in this case. While doing so, we notice the fact that the original petition to which the present complainant/Petitioner is not a party was disposed of by compromise without the intervention of this Tribunal and not based on the disputed document. Our decision not to take any action under Section 340 of Cr.PC is based solely on the facts and circumstances of this case on the ground that it is not expedient for this Tribunal to invoke Section 340 of the Code of Criminal Procedure and if the Petitioner is still aggrieved, he can take such steps as is permissible in law without in any manner being inhibited by the dismissal of this Petition. As a measure of

abundant caution, we also record the fact that we have not expressed any views on the merits and demerits of the allegations in this Petition.

With the above observation, this Application stands dismissed.

.....J  
**(N. Santosh Hegde)**  
**Chairperson**

.....  
**(Vinod Vaish)**  
**Member**

.....  
**(D.P. Sehgal)**  
**Member**