

Section 195 (3) of Cr. P.C. referred above shows that the term “Court” used in the Section includes the Tribunal constituted by or under Central, Provincial or State Act if declared by that Act to be a Court for the purposes of this Section. We have already seen Section 424 which in Sub-Section 4 has included the National Company Law Tribunal and National Company Law Appellant Tribunal under the Companies Act and proceedings before these Tribunals have to be deemed to be Judicial Proceedings within the meaning of Section 193 and 228 and for the purposes of Section 196 of the Indian Penal Code and the NCLT this Tribunal shall be deemed to be Civil Court for the purposes of Section 195 and Chapter XXVI of Cr. P.C. Chapter XXVI contains Section 340 of Cr. P.C. As per Section 5 (1) of IBC the “Adjudicating Authority” for the purposes of Part-II of IBC, means National Company Law Tribunal constituted under Section 408 of the Companies Act, 2013. Under Section 61 of IBC any person aggrieved by the order of the Adjudicating Authority may prefer an Appeal to National Company Law Appellate Tribunal. These Provisions make it clear that Adjudicating Authority was not right in its observations that it did not have jurisdiction to order Prosecution. ***In our view in appropriate case, the Adjudicating Authority has powers to act in terms of Section 340 of Cr. P.C. read with Section 195 of Cr. P.C. Under Section 340 of Cr. P.C. the Adjudicating Authority can hold preliminary inquiry if it is “of opinion that it is expedient in the Interest of Justice that an inquiry should be made” into the any offence referred in Clause ‘b’ of Sub-Section 1 of Section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, i.e. - Adjudicating Authority, here.***

CrPC S. 195(3), CrPC S. 340

KVR Industries Private Limited v. P.P. Bafna Ventures Private Limited (NCLAT)