

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL. M.C. 1449/2004 & Crl.M.C. 2859/2007**

Date of Decision : 16.05.2011

Crl.M.C.No.1449/2004

RAVI GULATI

..... Petitioner

Through: Petitioner in person.

Versus

HARI PARKASH

..... Respondent

Through: Mr. Ajay Baury, Adv.

Crl.M.C.No.2859/2007

RAVI GULATI

..... Petitioner

Through: Petitioner in person.

Versus

SAT PAL SINGH

..... Respondent

Through: Mr. Ajay Baury, Adv.

CORAM :

HON'BLE MR. JUSTICE V.K. SHALI

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| 1. | Whether Reporters of local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the Reporter or not ? | YES |
| 3. | Whether the judgment should be reported in the Digest ? | YES |

V.K. SHALI, J. (Oral)

1. This order shall dispose of two petitions bearing Crl.M.C.No.1449/2004 and Crl.M.C.No.2859/2007. Both these petitions are arising from the same facts although from different orders.
2. In Crl.M.C.No.1449/2004, the petitioner, Sh.Ravi Gulati has challenged the order dated 10.2.2004 passed by

Sh.Deepak Jagotra, the learned ASJ, Delhi allowing Crl. R.P.No.80/2003 filed by the respondent, Sh.Hari Parkash against the order dated 17.10.2000 passed by the Court of Sh.Sanjeev, the learned MM, Delhi dismissing the application under Section 140 of Delhi Police Act read with Section 197 Cr.P.C. in a complaint case filed by the present petitioner.

3. In Crl.M.C.No.2859/2007, the petitioner, Sh. Ravi Gulati has challenged the order dated 24.5.2007 passed by Sh.Rajiv Mehra, learned ASJ, Delhi allowing the Crl.Rev. P.no.12/2007 filed by the respondent Sh.Satpal Singh and consequently upholding his plea that the complaint filed by the present petitioner bearing no.43/2001 titled **Ravi Gulati Vs. Gyanender Kumar & Ors.** against the respondent could not be taken forward on the ground of want of sanction under Section 197 Cr. P.C. and Section 140 of D.P. Act.
4. In order to appreciate the issue, it would be pertinent here to give the brief facts of the case.
5. The petitioner, Ravi Gulati was allegedly running a Dhaba at UP Roadways Ajmeri Gate, Delhi bearing Stall No. 1 and it was alleged by him that on 28.9.94, two persons came to his dhaba on a scooter and after taking meals, beat him up when he demanded money from them. The said persons were alleged to be police officials who had not only beaten

the petitioner but also registered a false Kalandra under Section 93/97 of the Delhi Police Act against the petitioner.

6. The petitioner alleged that as a consequence of registration of the said Kalandra, he was taken to the police station by S.I. Satpal Singh and one Constable who were posted at PCR at that time and they had reached the spot after getting the initial information of the quarrel at Dhaba, where he was beaten up by SI Satpal Singh and ASI Hari Parkash with Dandas and was then locked up in the lock up.
7. The petitioner feeling aggrieved by the said behaviour of SI Satpal Singh and ASI Hari Parkash, lodged a private complaint, under Section 160/302/506/34 IPC against the officials which included Satpal Singh as well as ASI Hari Parkash.
8. SI Satpal Singh & ASI Hari Parkash filed an application under Section 140 of the Delhi Police Act read with Section 197 Cr. P.c. and brought to the notice of the learned Magistrate that since the alleged offence is purported to have been committed by them in the official discharge of their duties, therefore, appropriate sanction both under Section 140 of Delhi Police Act and under Section 197 of Cr.P.C. ought to have been obtained by the present petitioner and since this was not done, the proceedings against them be dropped. The application of Hari Praksh as

well as SI Satpal were dismissed on the same lines on two different dates. Sh. Hari Prakash preferred a revision petition bearing no.80/2003 raising the same plea before the learned Additional Sessions Judge. The said Revision came to be decided by Sh.Deepak Jagotra , learned ASJ, Delhi. The learned Sessions Judge has referred to Section 197 Cr.P.C. and observed that in terms of the said Section, the respondent namely Hari Prakash being a public servant removable from the office either by the Union Government or the State Government and the purported offence having been committed by him while acting in the official discharge of his duties warrants obtaining of sanction under Section 197 Cr.P.C. and since the said sanction had not been obtained, therefore, the present proceedings could not be continued.

9. In addition to the lack of sanction the learned ASJ also commented on the medical report of the present petitioner and observed that the nature of injuries purported to have been received by the present petitioner on account of alleged beatings and man-handling at the police station did not match with the injuries purported to be recorded in the medical certificate.
10. Because of these two reasons, the learned Sessions Judge allowed the revision petition and stated that the

continuance of the proceedings against Hari Prakash stands terminated and he was discharged.

11. So far as SI Satpal Singh is concerned, he filed a separate revision petition bearing no.12/2007 raising the same plea which was raised by ASI Hari Prakash. The learned Sessions Judge Sh.R.Mehra, dealt with the plea raised by the respondent Satpal Singh by observing that so far as Satpal's case is concerned, it is not different from that of ASI Hari Prakash and since in Hari Prakash's case, the learned Sessions Court has come to the conclusion that he deserves to be discharged on account of contradiction in the medical report of the injuries purported to have been received by the petitioner apart from the sanction, the case of SI Satpal could not be dealt with differently and accordingly, he was also discharged.
12. The first order in case of Sh. Hari Prakash was passed on 10.2.2004 while as in the case of Satpal, the order was passed on 24.5.2007.
13. The present petitioner Sh. Ravi Gulati feeling aggrieved by these two orders has preferred two separate criminal cases bearing no. CrI. M. C. 1449/2004 and CrI. M. C. 2559/2007 under Section 482 Cr.P.C. and urged that the order of the learned Sessions Judge in both the cases are not sustainable.

14. The petitioner was present in person and was asked to get his counsel. Firstly, he took a pass over. In the second call, the learned counsel for the petitioner still could not come and therefore, he asked for a date. The request of the petitioner for grant of a date was not acceded to on account of the fact that the matter has been pending in Court since 2004 and it has been adjourned repeatedly for one reason or the other.
15. The Court was constrained to go through the record and take the assistance of the learned APP.
16. I have heard the petitioner and have gone through the impugned orders.
17. The legal position under Section 482 Cr.P.C. is no more a subject matter of res integra. Section 482 Cr.P.C. reads as under:-

“482 Cr.P.C. Saving of inherent powers of High Court—Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

18. There are several authorities explaining the purpose of Section 482 Cr.P.C. It has been laid down in a case titled **Kavita Vs. State** 2000 CrI. L.J. 315 by our own High Court that the powers of High Court under Section 482 Cr.P.C. are extra ordinary powers and have to be exercised or

should not be resorted to like remedy of the appeal or the revision.

19. In a case titled **Manik Vs. State of UP** 2008 (8) 1 SCC 781, the Supreme Court has also observed that the power has to be exercised carefully with caution and only in such cases, where the Court wants to prevent any abuse of the processes of any Court or wants to secure the ends of justice.
20. In the instant case, I do not find any impropriety, incorrectness or illegality in the orders passed by the two learned Sessions Judge, who by separate revision petitions allowed the criminal revisions filed by the respective petitioners who happen to be the respondents herein on the ground that the prosecution against them for having caused injuries or wrongful confinement cannot continue because these acts allegedly and purportedly have been done by them in the official discharge of their duties and therefore, requirement of obtaining a sanction under Section 197 Cr.P.C. as well as under Section 140 of the Delhi Police Act has to be fulfilled. The purpose of obtaining sanction is only to insulate the public servant against the frivolous litigation or frivolous cases which a cantankerous party may initiate against them. Admittedly, in the instant case, the petitioner was booked for creating a nuisance under Section 93-97 of the Delhi Police Act which carries a

maximum punishment of fine of Rs.100/- in default of which imprisonment of up to 8 days and that too for an incident which has taken place in the year 1994.

21. I do not completely disbelieve that the petitioner who is running a dhaba that he may not have been subjected to the false registration of a Kalandra on the money having been demanded. But the question today after lapse of almost 17 years is, whether it is worthwhile to consider as to whether the issue of Kalandra and the consequent counter blast of a case of criminal complaint which has resulted in passing of two orders by the two learned Session Judges separately should be a subject matter of interference by the High Court in exercise of its powers under Section 482 Cr.P.C. The answer to this question in my opinion must necessarily be in negative. This is on account of two reasons, firstly, so far as the Kalandra is concerned, that is too trivial of an offence for which admittedly either the petitioner must have been let off or he must have paid the fine.

22. So far as the counter blast of initiation of a complaint by the present petitioner against the two present respondents are concerned, it necessarily must have been actuated on account of the motive to settle the score with the police officials who had registered a Kalandra against him.

23. The allegations against the respondents herein are that they had exceeded their exercise of power inasmuch as they had subjected the petitioner to violence by beating him and confining him to lock up. If that be so, necessarily the petitioner ought to have obtained sanction from the competent authority in continuing the proceedings, otherwise, the police officials will have no sense of security and will be open to the frivolous complaint and thus it would act as a deterrent in discharge of their duties.
24. Be that as it may, once the learned Sessions Judge has taken a view on the matter regarding the absence of sanction and its consequence, it is not open to the petitioner to invoke the jurisdiction of this Court under Section 482 Cr.P.C. and persuade this Court to substitute its own view in place of the view of the learned Sessions Judge. This time of the High Court which has been wasted by the petitioner could have been very well spent on some more important matters where the accused persons are languishing in jail.
25. The ends of justice would be better served if the valuable time of the Court is spent in hearing the appeals rather than entertaining the petitions under Section 482 Cr.P.C. at an interlocutory stage which are filed with a motive to prolong the proceedings or to delay the trial which ultimately, leads to the miscarriage of justice. The fact of the matter remains

that the valuable time of the Court ought to be spent on the matters which merit consideration of its valuable time rather than on the matters where the parties are trying to settle the score with each other.

26. For the reasons mentioned above, I do not find that there is any abuse of the processes of law or any order needs to be passed to the contrary in the interest of justice.

27. For these reasons, I dismiss both the petitions under Section 482 Cr.P.C.

V.K. SHALI, J.

MAY 16, 2011
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