

THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

CRM-M-12030 of 2013 (O&M)
Decided on : 10.03.2015

Ashok Mittal

... Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR.JUSTICE PARAMJEET SINGH

Present : Mr.Rajesh Lamba, Advocate for the petitioner.
Mr.Rajesh Gaur, DAG, Haryana.
Ms.Gurdeep Kaur, Advocate for the complainant.

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Paramjeet Singh, J. (Oral)

The instant petition has been filed under Section 482 of the Code of Criminal Procedure, for quashing Kalendra dated 26.06.2012 (Annexure P/5) and the order dated 25.07.2012 (Annexure P/6) passed by learned Additional Chief Judicial Magistrate, Faridabad.

The brief facts of the case are that petitioner (complainant) lodged an FIR No.260 dated 26.05.2009 under Section 420, 467, 468, 471 and 506, IPC at Police Station Faridabad Central against one Sarabjeet.

After investigation, the Investigating authority found that the petitioner had got registered a false FIR and submitted the cancellation report. Prior to the passing of any order in the cancellation report a Kalendra was filed in the Court of Additional Chief Judicial Magistrate, Faridabad on 25.07.2012 in which the notice was issued to the petitioner.

Learned counsel for the petitioner vehemently contended that Kalendra under Section 182 Cr.P.C. could not have been submitted without

acceptance of cancellation report by the competent court in which the challan was presented. In the FIR case, the petitioner had filed a protest petition that was rejected so far as the cancellation report was concerned and the cancellation was accepted. However, the same was treated as a separate complaint vide order dated 08.10.2012. Kalendra under Section 182, Cr.P.C. was filed prior to the finalization of proceedings with respect to the cancellation report. In view of this, the Kalendra filed by the Police authorities and the notice issued by the learned Additional Chief Judicial Magistrate, Faridabad vide order dated 25.07.2012 is not sustainable in the eyes of law.

Learned State counsel vehemently contended that once the investigating authorities come to the conclusion that the false case has been registered, the authority has power to proceed under Section 182, Cr.P.C. without waiting for the result of cancellation report.

I have considered the contentions raised by both the learned counsel for the parties and perused the record.

Admittedly, the investigating authorities investigated the case and had come to conclusion that a false complaint has been lodged, on the basis of which, FIR was registered against one Sarabjeet. The cancellation report was submitted to the Illaqa Magistrate i.e. Additional Chief Judicial Magistrate, Faridabad for consideration. The cancellation report was accepted vide order dated 08.10.2012 and in view of this, the complaint could have been filed with the proceedings becoming final with regard to the FIR.

In view of this, filing of Kalendra dated 26.06.2012 (Annexure P/5) before the Additional Chief Judicial Magistrate, Faridabad and consequential issuance of notice to the petitioner are not sustainable.

Accordingly, they are set aside.

However, police authorities will be at liberty to file a fresh Kalendra as the findings have been recorded which are stated to have become final under Section 182, Cr.P.C. It is made clear that setting aside Kalendra already presented in the court, and the impugned order set aside by this Court, will not preclude the police authorities from filing the fresh Kalendra in accordance with law.

Petition stands disposed of.

[Paramjeet Singh]
Judge

10.03.2015
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