

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**Crl.Misc.No.M-36475 of 2012 (O&M)
Date of decision : 16.02.2015**

Satnam Singh

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE NARESH KUMAR SANGHI

Present:- Mr.G.L.Bajaj, Advocate for the petitioner.

Mr.K.S.Pannu, DAG Punjab.

None for respondent Nos.2 and 3.

NARESH KUMAR SANGHI, J. (Oral)

Mr.G.L.Bajaj, learned counsel for the petitioner prays for an adjournment. The same is declined. The present petition came up for hearing before this Court on 31.01.2013 and the same was adjourned to 01.04.2013, since no one had appeared for the petitioner. On the adjourned date the case was further adjourned to 27.05.2013 at the request of counsel for the petitioner. On 27.05.2013 no one appeared for the petitioner, therefore, the case was adjourned to 10.10.2013. Even on the adjourned date none appeared for the petitioner, therefore, the case was adjourned to

30.10.2013 and even on that date no one appeared for the petitioner and as such, the case was adjourned to 30.04.2014. Then the case was taken up on 01.05.2014 and on that date also no one appeared for the petitioner and as such, the matter was adjourned to 04.11.2014. On the adjourned date Mr.G.L.Bajaj, Advocate appeared for the petitioner and he sought time to place on record the documents. Today the case was taken up for arguments in pre lunch session then a request was made on behalf of Mr.Bajaj, for a date which was not accepted and the case was directed to be taken up after lunch. When the case was taken up in the post lunch session, Mr.Bajaj appeared for the petitioner and prayed for an adjournment and the same was not accepted. He was requested to argue the matter but he did not advance the arguments.

With the assistance of learned State counsel, the matter has been thoroughly discussed. The brief facts of the case are that petitioner Head Constable Satnam Singh was posted at City Traffic Range, Bathinda. Respondent No.3-Subhash Chand was driver of respondent No.2-Surinder Pal Bansal. Head Constable Satnam Singh had challaned Subhash Chand-respondent No.3 for violation of Sections 179 and 181 of Motor Vehicles Act. The owner of the vehicle i.e. Surinder Pal Bansal-respondent No.2 lodged the protest

before the higher police authorities that Head Constable Satnam Singh had no authority to check the vehicle and issue challan against Subhash Chand. The complaint filed by Surinder Pal Bansal was found to be baseless, thereafter, petitioner Head Constable Satnam Singh filed a Calandra for prosecution of Surinder Pal Bansal and Subhash Chand for having committed the offence punishable under Section 186 IPC. On the basis of Calandra filed by the petitioner, learned Magistrate took cognizance and issued notices to the respondents, Surinder Pal Bansal and Subhash Chand. Summoning order was challenged by way of a revision petition before learned Additional Sessions Judge (Fast Track Court), Bathinda by the respondents, Surinder Pal Bansal and Subhash Chand and the same was accepted. The operative part of the order is as under:-

" From the perusal of the record shows that petitioner Surinder Pal Bansal, moved one complaint dated 23.10.2010 to DIG, Faridkot, Range, Bathinda and copy of the same was sent to IG, Bathinda Zone, Bathinda, against HC Satnam Singh No.1717, City Traffic, Wing, Bathinda and the said complaint was marked for enquiry to Senior Superintendent of Police, Bathinda, which was further entrusted to

Superintendent of Police (City) Bathinda, submitted his report dated 23.07.2010, vide which, he has concluded that driver of the car Subhash Kumar son of Pritam Singh, resident of Guru Teg Bahadur Nagar, Gali No.14, Bathinda, has misbehaved with HC Satnam Singh No.1717 above and it was further concluded that HC Satnam Singh challaned petitioner Subhash Chand for misbehaving, without driving licence and without seat belt and the photo copy of the said challan is also on record. Which shows that without driving licence is punishable under Section 181 of Motor Vehicle Act and lastly disobeying police signal/obstructing, misbehaving/refusing information is punishable under Section 179 of Motor Vehicle Act and as per Notification No.10/166/09/172/734 dated 3.2.2010 relied upon by the petitioner Surinder Pal Bansal was considered by the Superintendent of Police (City) Bathinda and he has strangely concluded that as per 11 offences, mentioned in the above said notification, HC Satname Singh No.1717 has not challanged the petitioner Subhash Chand for any of the offences, mentioned in the notification. Whereas, copy of the notification produced by learned

counsel for the petitioners clearly shows that the challan regarding jumping of lights, without seat belt and disobeying of traffic signal have been mentioned on the challan slip attached with the Calendera and only the police officer not below the rank of Assistant Sub Inspector is competent to compound these offences, for which, the petitioner, Subhash Chand has been challenged. So on the face of it, it is clear that HC Satnam Singh was not competent to challan the petitioner Subhash Chand for the offences punishable under Section 177 and 179 of Motor Vehicle Act and further even in cases of refusing information, but the Calandra seems to have been presented by the concerned police officials by ignoring the mandatory provisions by HC Satnam Singh No.1717, City Traffic Wing, Bathinda. The learned Addl.PP for the State could not repel this contentions of learned counsel for the petitioners regarding competency of HC Satnam Sing No.1717, City Traffic Wing, Bathinda."

The learned counsel for the petitioner was again asked by this Court as to how Head Constable Satnam Singh was competent to file the Calandra before the Court below without the

authority of the Station House Officer or any other superior officer and after acceptance of the revision petition by the learned Additional Sessions Judge, how this petition can be presented by Head Constable Satnam Singh in his personal capacity. No answer was put forth by the counsel for the petitioner.

The learned State counsel very fairly conceded that the State has not authorized Head Constable Satnam Singh to file present petition.

In the considered opinion of this Court, Head Constable Satnam Singh cannot file the present petition against the impugned order passed by learned Additional Sessions Judge in his personal capacity.

Even other wise on the basis of findings recorded by learned Additional Sessions Judge, this Court has no hesitation in holding that there is no merit in the present petition.

Dismissed.

16.02.2015
anil

(NARESH KUMAR SANGHI)
JUDGE