

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No. M-42802 of 2014
Date of decision: 05.02.2015

Charan Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Mr. Manoj K. Sharma, Advocate for the petitioner

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J.

On asking of the Court, Mr. Nikhil K. Chopra, DAG Punjab accepts notice on behalf of the respondent-State.

In this petition under Section 482 Cr.P.C., the petitioner seeks quashing of Calendra (complaint) dated 6.9.2013 (Annexure P2), filed by the respondent under Section 182 IPC. Petitioner also seeks quashing of order dated 20.9.2013 (Annexure P3), vide which, the cognizance of the same has been taken.

Brief facts of the case, relevant for the purpose of disposal of the present petition, are that Charan Singh petitioner visited the office of the Vigilance Bureau, Ludhiana on 24.1.2002 and complained that one Avtar Singh, Senior Assistant of the Copying Branch of Deputy Commissioner, Ludhiana is demanding Rs.1000/- as bribe for supplying copy of the mutation and pedigree table. On the basis of the complaint, shadow witness Lachman Singh was

joined, a raid was conducted and said Avtar Singh was apprehended red handed. After the completion of investigation, Avtar Singh was put to trial. Vide judgment dated 8.5.2013, the learned Special Judge, Ludhiana acquitted the said Avtar Singh, holding that the demand and acceptance of the bribe by the accused is not proved.

Thereafter, the State through Deputy Superintendent of Police Vigilance Bureau, Ludhiana filed a Calendra under Section 182 Cr.P.C. on 6.9.2013 against the present petitioner stating that he had turned hostile in the Court of learned Additional Sessions Judge, Ludhiana and is liable under Section 182 IPC. The learned Chief Judicial Magistrate, Ludhiana vide order dated 20.9.2013 issued summons to the accused petitioner.

I have heard learned counsel for the petitioner and learned State counsel.

First of all the provisions of Section 182 IPC need to be reproduced as under:-

“182. False information, with intent to cause public servant to use his lawful power to the injury of another person

Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant-

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.”

A perusal of said section reveals that it pertains to false information being given to public servant to use his lawful power to the injury to the other.

A perusal of the judgment of learned Special Judge, Ludhiana dated 8.5.2013 shows that on the basis of the statement of Charan Singh regarding demand of bribe by Avtar Singh, a trap was laid and Avtar Singh was apprehended, which means that the information supplied by Charan Singh to the Vigilance Bureau, Ludhiana was not false or incomplete. Even during trial, Charan Singh petitioner supported the prosecution case and made a statement on the lines of the statement made to the Vigilance Bureau. However, learned Special Judge noticed that during cross-examination by accused, complainant had stated about preparation of certified copies of relevant documents by the accused and replied in affirmative that he himself handed over the currency notes to the accused and no other talk took place. Therefore, it was concluded that there was no demand and acceptance on the part of the accused.

Now, the question would arise whether this statement in cross-examination is covered under the mischief of Section 182 IPC. I find the reply in negative. In the examination-in-chief, the complainant petitioner had supported the prosecution case. When a witness is cross-examined by a competent criminal lawyer and the questions in cross-examination are put, sometime in a deceptive way, the witness may make statement in a particular way which may help the accused. However, the present petitioner had nowhere stated that the money was never handed over to said Avtar Singh accused. If on account of the competence or art of cross-examination of the defence counsel, some concession was extracted from the witness

and on that account, the accused was acquitted, it cannot be said that the present petitioner had given false information to the public servant and is liable under Section 182 IPC. Even it cannot be said that the present petitioner had intentions to give false information during trial.

Therefore, I am of the view that the alleged act of the petitioner in making some statement during cross-examination is not covered under the definition of Section 182 IPC.

In the present case, on the basis of the complaint of the present petitioner, a trap was laid and the culprit was caught red handed accepting the bribe. When the complaint of the complainant has resulted in the filing of the charge sheet, he cannot be tried under Section 182 IPC, if subsequently the accused is acquitted for the reason that in cross-examination, some statement was made which helped the accused. Reliance in this regard is placed on the authorities of this Court in *Karamjit Kaur v. State of Punjab*, 2012(6) R.C.R. (Criminal) 1799 and *Balraj Singh v. State of Punjab*, 2006(4) R.C.R. (Criminal) 488.

It being so, other questions become secondary. As a result of the foregoing discussion, the present petition is allowed. The impugned Calendra (complaint) dated 6.9.2013 (Annexure P2) presented in the Court of the learned Chief Judicial Magistrate, Ludhiana alongwith the consequential proceedings stands quashed.

05.02.2015
gk

(Kuldip Singh)
Judge