

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

**Crl. Misc. No. M-6788 of 2014
Date of decision: 20.01.2015**

Sunil Kumar

...Petitioner

versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Bhupinder Ghai, Advocate,
for the petitioner.

Mr. Gurvir Sidhu, AAG, Punjab.

RITU BAHRI, J.

This petition under Section 482 Cr.P.C is for quashing of Kalandra dated 17.09.2013 (Annexure P-3) filed by the respondent-State against the petitioner.

The petitioner made a complaint against one Vijay Kumar son of Mohana Ram, resident of Dewan Khera, District Fazilka, for embezzlement of the funds, which have been given to construct the garden. The subsidy was taken by said Vijay Kumar by mentioning wrong facts and Killa numbers. After the grant of subsidy, he had changed the Killa numbers, out of which, some land of the petitioner was also included. When the petitioner visited at his land, he found that no construction was being done. Thereafter, the petitioner filed a complaint dated 03.09.2012 (Annexure P-1) against Vijay Kumar by mentioning that he (Vijay Kumar) had given a wrong affidavit for constructing a garden in 20 cares of land, in which 10 acres were of

reconstruction and 10 acres of new construction. The said complaint was enquired into by the Deputy Superintendent of Police (D), Fazilka and gave his report (Annexure P-2) to the effect that there was no misuse of fund and the subsidy was given according to the rules and regulations of the Gardening Department. Thereafter, the Deputy Superintendent of Police ordered to initiated action against the complainant-petitioner for making false complaint against Vijay Kumar. Accordingly, the proceedings were initiated against the petitioner and Kalandra (Annexure P-3) under Section 182 IPC was presented in the Court. Thereafter, petitioner was summoned to face a trial.

Quashing of Kalandra (Annexure P-3) is being sought on the ground that the complaint was made by the petitioner to the Senior Superintendent of Police, Fazilka and the Kalandra has been filed by the SHO. Learned counsel for the petitioner, while referring to the judgment delivered by this Court in **Malkiat Singh Vs. State of Haryana**, 1999 (2) RCR (Crl.) 11, argued that once, a complaint has been filed and the same was not converted into an FIR, proceedings under Section 182 IPC could not be initiated against the petitioner.

In its reply, the stand of the respondent is that during the enquiry of the complaint made by the petitioner, the allegations were found to be false and there is no illegality committed by the police in preparing the Kalandra (Annexure P-3) under Section 182 IPC.

In a judgment delivered by this Court in **Babita Vs. State of Punjab and another**, 2008 (4) RCR (Criminal) 516, it has been held that if, a complaint made to the SSP is found to be false, then Calandra under Section 182 IPC cannot be initiated by the SHO. Further, in **Bimla Devi and others**

Vs. State of Punjab, CRM-M-28471 of 2009 (decided on 31.08.2010), Kalandra under Section 182 IPC was quashed on the ground that in case the SHO has not registered the FIR and on the basis of enquiry in the complaint, the complaint was found to be false, the initiation of proceedings under Section 182 IPC were not permissible.

In the present case, after making the complaint, an enquiry was conducted by the Deputy Superintendent of Police (D), Fazilka and the allegations were found to be false. Consequently, no FIR was registered. In such circumstances, initiation of proceedings under Section 182 IPC were not permissible.

Resultantly, in view of the judgments delivered in **Malkiat Singh** and **Babita's** case (supra), Kalandra dated 17.09.2013 (Annexure P-3) is quashed along with all consequential proceedings arising therefrom qua the petitioner.

Petition stands allowed accordingly.

(RITU BAHRI)
JUDGE

20.01.2015
ajp