

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

CRM-M No.13784 of 2015

Date of decision: 17th February, 2016

Pratima Kumari

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

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

Present: Mr. Shubhankar Baweja, Advocate
for the petitioner.

Mr. Munish Sharma, Asstt. Advocate General, Haryana.

Mr. Sapan Dhir, Advocate
for respondent No.2.

FATEH DEEP SINGH, J.

Petitioner Pratima Kumari claiming that she is working as an Assistant Professor at NCERT, New Delhi and that her husband is employed as Professor at Krishi Vigyan Kender, Jhajjar and prior thereto he was working in Krishi Vigyan Kender, Kurukshetra where respondent No.2 Dr.Sat Pal Goel was also posted as Senior Coordinator. It is further alleged that her husband and respondent No.2 were not having cordial relations and thus to harass and humiliate them, respondent No.2 had threatened them on 23.06.2010 regarding which the petitioner had filed complaint dated 24.06.2010

(Annexure P/1) addressed to the Superintendent of Police, Kurukshetra contending that the SHO of the concerned Police Station, instead of acting on the complaint of the petitioner, initiated proceedings against the petitioner and presented Kalandra under Section 182 IPC.

The petitioner has sought quashment of the proceedings by way of invocation under Section 482 Cr.P.C.

Though factually not on the similar footing but having regard to the legal position as to whether in terms of Section 195 Cr.P.C. such a complaint under Section 182 IPC can be made by the SHO, as has been done in the present case, or it ought to have been made by the public servant (Superintendent of Police in this case) to whom the same was moved? Whereby it was answered against the State holding that the only competent officer is the Public Servant before whom it was made.

The law is well settled, as has been held by their Lordships of the Hon'ble Supreme Court in '**Daulat Ram v. State of Punjab**' **1962 AIR 1206** and thereafter in the ratio '**P.D.Lakhani and another v. State of Punjab and another**' **2008(2) RCR (Criminal) 838** and a catena of case law including '**D.S.Rawat v. State of Punjab**' **2008(1) Crimes 225**; '**Kulwinder Singh v. State of Punjab and another**' **2008(4) RCR (Criminal) 418**; '**Dr.Sham Lal Thukral v. State of Punjab**' **2009(3) RCR (Criminal) 168**, '**Subhash Chander v. State of Haryana**' **2010(3) RCR (Criminal) 308** and '**Malkiat Singh v. State of Haryana**' **1999(2) RCR (Criminal) 10** as well as ratio of this Court

in 'Iqbal Singh v. State of Punjab' (CRM-M No.23885 of 2014, decided on 01.02.2016).

Thus, in the light of the settled position of law, present proceedings under Section 182 IPC being not maintainable, as the same tantamounts to misuse of the process of law, and in view thereof the instant petition is allowed and the Kalandra under Section 182 IPC as well as summoning order therein are hereby quashed.

(FATEH DEEP SINGH)
JUDGE

February 17, 2016
rps