

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18877 of 2016

Date of Decision: August 19, 2016

Jatin Sapra

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Sumeet Pal Singh Aulakh, Advocate
for the petitioner.

Mr. Jasjeet Dhaliwal, DAG, Punjab.

FATEH DEEP SINGH, J.

In this petition under Section 482 Cr.P.C. the petitioner Jatin Sapra has sought quashment of Kalandra Annexure P/1 moved by Station House Officer, Police Station, Khanna City dated 13.01.2016 under Section 182 IPC read with Section 66 of Punjab Police Act, 2007 pending before the learned SDJM, Khanna as well as summoning orders dated 09.03.2016 and subsequent proceedings arising out of it.

Upon hearing learned counsel for the parties, the brief facts that need to be recapitulated are that the petitioner had moved a complaint against Ajit Sahi, Ashish Sahi and Amit Aggarwal, all residents of Khanna for initiation of proceedings under Section 452,506,394,323,278,283,290 and 294 IPC bearing complaint No.1744/P

dated 16.7.2015 which was addressed to Senior Superintendent of Police, Khanna (Annexure P/5). Consequent upon investigations, the police filed report Annexure P/6. The police had come to the conclusion that the complainant had filed case against the opposite party in a Court of law and the averments were found false and there was no truth in it and on the basis of which Station House Officer, Inspector, Ashwani Kumar lodged the instant Kalandra.

Admittedly, complaint by the present petitioner has been moved before the Senior Superintendent of Police, Khanna and which during the course of investigations was found to be false. Undisputedly, the complaint was addressed by the petitioner to the Senior Superintendent of Police when the present proceedings by way of Kalandra under Section 182 IPC has been initiated by the Station House Officer and, thus, having regard to the legal position as to whether in terms of Section 195 Cr.P.C. a complaint under Section 182 IPC can be made by the Station House Officer, as has been done in the present case, or it ought to have been made by the public servant (Senior Superintendent of Police) 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 vs. State of Punjab 1962 AIR 1206** and thereafter in the ratio **P.D. Lakhani and another vs. State of Punjab and another 2008(2) RCR (Criminal) 838** and catena of case law including **D.S. Rawat vs. State of Punjab 2008(1) Crimes 225;** **Kulwinder Singh vs. State of Punjab and another 2008(4) RCR**

(Criminal) 418; Dr. Sham Lal Thukral vs. State of Punjab 2009(3) RCR Criminal 168; Subhash Chander vs. State of Haryana 2010(3) RCR (Criminal) 308 and Malkiat Singh vs. State of Haryana 1999(2) RCR (Criminal) 10 as well as ratio of this Court in CRM-M-23885 of 2014 Iqbal Singh vs. State of Punjab. Thus, in view of the settled position of law such proceedings at the behest of the Inspector, Station House Officer, Police Station, City Khanna to whom the complaint was never addressed was incompetent to initiate such proceedings and such proceedings are not maintainable and thus nonest in the eyes of law.

Thus, the present proceedings before the learned SDJM, Khanna under Section 182 IPC being not maintainable as the same tantamounts to misuse of process of law and in view thereof the instant petition is allowed and the Kalandra under Section 182 IPC (Annexure P/1) as well as summoning orders and all proceedings thereon are hereby quashed.

The petition stands disposed off in those terms.

(FATEH DEEP SINGH)
JUDGE

August 19, 2016
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No