

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19229 of 2016

Date of Decision: August 29, 2016

Munshi Ram

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. S.K.Yadav, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

FATEH DEEP SINGH, J.

In this petition under Section 482 Cr.P.C. the petitioner Munshi Ram has sought quashment of Kalandra Annexure P/6 moved by Station House Officer, Police Station, Nuh dated 02.01.2016 under Section 182 IPC pending before the learned Chief Judicial Magistrate, Nuh as well as summoning orders dated 16.03.2016 (Annexure P/7) 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 before District Food and Supply Controller, Mewat against Mrs. Manisha Mehra and Mohammad Umar, Food and Supply Inspectors for initiation of action against them and the District Food and Supply

Controller, Mewat has forwarded copy of the same to the Superintendent of Police, Mewat. Consequent upon investigations, Station House Officer, Nuh finding the allegations to be false and malicious cancelled the FIR and Kalandra was presented against the petitioner under Section 182 IPC. Undisputedly, the complaint was moved by the petitioner to District Food and Supply Controller, Mewat who had forwarded the same to the Superintendent of Police, Nuh and a separate copy of which has also been sent by the petitioner to Superintendent of Police, Nuh when the present proceedings by way of Kalandra under Section 182 IPC has been made 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 concerned (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 Station House Officer, Police Station, Nuh was incompetent to initiate such proceedings are nonest and illegitimate, misuse of the process and such proceedings are not maintainable.

Thus, the present proceedings before the learned Chief Judicial Magistrate, Nuh 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/6) as well as summoning orders and consequent proceedings thereon are hereby quashed.

The petition stands disposed off in those terms.

(FATEH DEEP SINGH)
JUDGE

August 29, 2016

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No