

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

CRM-M No.23885 of 2014 (O&M)
Date of decision: 1st February, 2016

Iqbal Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

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

Present: Mr. APS Sandhu, Advocate
for the petitioner.

Mr. C.S. Brar, Dy. Advocate General, Punjab.

FATEH DEEP SINGH, J.

The short point involved in this case is to the effect that one application bearing No.8032-COP dated 18.12.2012 was moved by Iqbal Singh, present petitioner against Gurjit Singh, Manmeet Singh Sukhbir Singh alias Kittu, Narinder Kumar, Ram Kumar, Sukhraj Kaur and Labh Singh regarding an incident that has taken place at Court complex at Amritsar. This application, though, was moved before the Police Station, Gate Hakima, Amritsar but was subsequently sent to the Police Station, Civil Lines, Amritsar which happens to be addressed to the Commissioner of Police, Amritsar. After enquiry of the complaint by ASI, Gurbhej Singh the allegations were found to be

false. As earlier Iqbal Singh, petitioner had filed a criminal case bearing FIR No.141/12 dated 22.10.2012 under Sections 379, 458, 452, 447, 448, 511, 34 IPC at Police Station, Gate Hakima, Amritsar and the accused Gurjit Singh and others secured anticipatory bail and, thus, it was averred that the complainant in the present complaint to the police had knowingly and intentionally made false allegations leading to filing of Kalandra (Annexure P/2) in terms of Section 182 IPC. It is against these findings the petitioner Iqbal Singh, who is being prosecuted has come up before this Court under Section 482 Cr.P.C. seeking quashing of this Kalandra (Annexure P/2) pending before the Court of Judicial Magistrate 1st Class Amritsar as well as summoning order dated 18.12.2013, whereby, the Court of learned Chief Judicial Magistrate, Amritsar has issued process to the petitioner.

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 (Commissioner of Police, Amritsar 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 (Annexure P/2) as well as summoning order therein are hereby quashed.

(FATEH DEEP SINGH)
JUDGE

February 01, 2016
rps