

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

CRM No.M-36440 of 2016 (O&M)
Date of Decision: November 18, 2016

R.K.Gautam

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Shalender Mohan, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against State of Haryana and other respondents, for quashing of order dated 03.03.2016 passed by learned Judicial Magistrate Ist Class, Hisar vide which the direction of lodging FIR has been denied and for quashing of judgment dated 17.09.2016 passed by learned Addl. Sessions Judge, Hisar, vide which the revision petition filed by the petitioner against the order dated 03.03.2016 has been dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that a complaint has been filed by R.K.Gautam against Jaivir Singh Poonia, SDO, Hari Parkash, JE, Ishwar Singh, SE and Ravinder Gupta XEN under Sections 409, 420 and 120-B

police under Section 156(3) Cr.P.C. and considered it as private complaint, took cognizance and adjourned it for preliminary evidence vide impugned order dated 03.03.2016.

Against order dated 03.03.2016, a revision was filed and learned Addl. Sessions Judge, Hisar, while discussing the facts in minute detail and by discussing the law, held that there is no merit in the present revision petition and the same deserves to be dismissed. A complaint was filed by the petitioner before learned trial Court and it contained certain allegations against the respondents-accused. After considering the matter, learned Magistrate held that there was no ground to direct investigation for further facts before taking cognizance and therefore, rejected the prayer for sending the complaint. The revisional Court further held that the power is discretionary and it is settled law the said discretionary power has to be exercised with great caution and in a judicious manner. A complaint cannot be sent for investigation/registration of a case at the mere asking of a party. It is further held that the cognizance has already been taken by the Court and the case has been fixed for preliminary evidence. Learned Addl. Sessions Judge, Hisar, also held that against the said order, revision petition is not maintainable.

The perusal of the complaint shows that the present complainant is an ASDO Electrical, Panchayati Raj and he has filed the complaint against his senior officers also, who are SDO, XEN and SE. The perusal of the complaint nowhere shows that it requires investigation by the police. The Court has already taken the cognizance and on the basis of preliminary evidence, the Magistrate can decide whether any ground is made out for summoning the accused or not. It is not a case of such type

where the investigation by the police is necessary. The allegations in the complaint are mainly that the accused have acted beyond jurisdiction and have installed street lights of un-approved brands etc.

Keeping in view the facts as stated in the complaint, I find that no illegality has been committed by learned JMIC, Hisar, while passing the impugned order dated 03.03.2016 and by revisional Court while passing judgment dated 17.09.2016. In no way, the order and judgment passed by the Courts below can be held as perverse or against the law.

Therefore, finding no merit in the present petition, the same is dismissed.

November 18, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No