

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6844-2015

DECIDED ON: December 05, 2016

SAMAS TAHIR KHAN AND OTHERS

.....PETITIONERS..

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS..

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Akshay Bhan, Sr. Advocate with
Mr. HPS Sandhu, Advocate and
Mr. Rohit Sud, Advocate,
for the petitioners.

Ms. Neelam Kashyap, DAG, Haryana.

JASPAL SINGH, J (ORAL)

By virtue of instant petition under Section 482 of the Code of Criminal Procedure, the petitioners have sought quashing of impugned Kalendra dated 01.07.2014 as well as impugned order dated 10.11.2014 whereby the warrants of arrest have been issued for securing the presence of petitioners.

During the course of arguments, it has emerged that complaint under Section 500 IPC was moved by respondent No.3-Brij Sharma in the Court of Id. Jurisdictional Magistrate, which was sent to SHO, Police Station City Karnal to conduct an enquiry under Section 202 of the Code. In pursuance thereof, notice(s) were allegedly issued under Section 160 of the Code for securing their presence and to get their statements recorded or to assist the investigating agency. It is eerie & weird to note that an offence falling within the purview of Section 500 IPC is non-cognizable and if, at all, a complaint lies,

neither FIR can be registered nor investigation can be initiated for the presentation of report under Section 173 (2) of the Code. Thus, the issuance of notice under Section 160 Cr.P.C. for securing the presence of petitioners or taking any action against them for non-compliance of notices is not called for and such a course adopted by the investigating agency as well as the trial Magistrate is untenable.

In the light of what has been discussed above, the Kalendra dated 01.07.2014, order dated 10.11.2014 passed by Id. Magistrare as well as any subsequent proceedings initiated thereof are quashed by way of acceptance of instant petition.

December 05, 2016
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: **Yes/No**

Whether reportable: **Yes/No**