

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13747-2010 (O&M)

Date of decision: July 05, 2017.

Gurmeet Ram

... **Petitioner**

v.

State of Punjab and others

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri Malkeet Singh, Advocate for the petitioner.

Shri Ramandeep Singh Sandhu, Sr. Dy. AG, Punjab

Shri M.S. Rana, Advocate for respondent No.4.

A.B. Chaudhari, J. (Oral):

Rule. Heard forthwith with the consent of Learned Counsel for the rival parties since this petition is pending in this Court since 2010.

This petition is directed against continuance of kalendera under Section 182 IPC (Anneuxre P-1) under Rapat No.26 dated 13.10.2009 “State v/s Sohan Ram” and summoning order Annexure P-2 dated 13.5.2008 pending before SDJM, Phagwara, District Kapurthala.

The dispute is between two brothers Sohan Ram and Tarsem Lal respondent No.4. The dispute arose in the year 2000. Sohan Ram who is permanent resident of UK, gave a power of attorney to petitioner Gurmeet Ram son of Milkhi Ram and the suit property was sold by the petitioner on behalf of Sohan Ram. Sohan Ram, however, filed a complaint to the police that a false and forged rent note dated 20.4.1998 was prepared by his real

brother respondent No.4 Tarsem Lal which did not bear his signatures and therefore, it was a forged and fabricated document. The complaint was inquired into further. An order was made by this Court for directions at the behest of Sohan Ram and the report was made that the complaint was true. Thereafter, the inquiry was made by some other officer and hand-writing expert's report was found to be necessary and therefore, the complainant Sohan Ram was repeatedly asked to produce original documents as well as specimen signatures. However, on the pretext that he was a permanent resident of UK, he never submitted any document or the specimen signatures. Since Sohan Ram did not cooperate, the police filed a cancellation report which was accepted. It is after that, that Tarsem Lal respondent No.4 filed a petition in this Court for direction to the police to take action under Section 182 IPC. This Court disposed of the petition with a direction that the police should look into his grievance. On the basis of the said order made by this Court, the police came to the conclusion that since Sohan Ram did not submit the original papers and the specimen signatures, his complaint was false and therefore, proceedings under Section 182 IPC were required to be filed. Accordingly, the proceedings were filed against Sohan Ram as well as the power of attorney, the petitioner herein. These proceedings are under challenge. Acting on the said kalendra report under Section 182 IPC, the trial court made an order on 31.10.2008 summoning the accused for 23.1.2009, which reads thus:-

“Challan presented today. It be registered and indexed. Accused be summoned for 23.1.2009.”

Obviously, the order has been passed mechanically and without

any application of mind which is clear from the reading of the order itself. The order must be set aside on that ground itself. However, the parties are blood relatives and since the petition is pending for so many years, I am not inclined to dispose of the petition on that short ground, namely, non-speaking order. This Court, therefore, finds that it is necessary to decide the petition on merits qua the kalendra.

Section 182 IPC reads thus;-

“182. False information, with intent to cause public servant to use his lawful power to the injury of another person.—Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.”

As stated in the above facts, the kalendra was filed with the police merely because the original documents as well as specimen signatures were not given by Sohan Ram. I do not think in the absence of concrete evidence to show that the allegations, made by Sohan Ram that his signatures were forged, were false and that he believed them to be false intending thereby to cause the police to do or act on the said information. However, the police drew the jumping conclusion that because Sohan Ram did not produce documents and did not provide signatures, therefore, ingredients of Section 182 IPC were attracted. In my opinion, that is absurd. I think therefore that without concrete evidence with the police to

satisfy the ingredients of Section 182 IPC, there was no justification for filing the kalendra. Thus, I find that this is a case of no evidence for the purpose of Section 182 IPC and the kalendra could not have been continued.

Learned counsel for the complainant Tarsem Lal has vehemently opposed the petition on the ground that now Section 182 IPC proceedings are pending for evidence before the trial court after framing of charge and therefore this Court should not interfere. It is trite law that if the proceedings are going on, there is no need to scuttle the same and the same need to be taken to its logical conclusion. However, as found by me in earlier paragraph that this is a case of no evidence, there is no need to continue with the trial as it will be abuse of the process of the court particularly when it is not contemplated in law. As I find, the dispute is between blood relatives and it is not proper to keep the petition pending. However, since the petitioner filed this petition in 2010 and since Tarsem Lal has been attending this Court for so many years, the petitioner will have to pay costs in the sum of Rs.25,000/- to respondent No.4 Tarsem Lal within eight weeks from today. It is made clear that if the costs are not paid to respondent No.4 Tarsem Lal within the stipulated period of eight weeks by way of demand draft, this order shall automatically come to an end.

Disposed of.

July 05, 2017.

kadyan

[A.B. Chaudhari]
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No