

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

CRL. MISC. No.M-35083 OF 2016 (O&M)
DATE OF DECISION : 28th SEPTEMBER, 2017

Kashmir Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

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

* * * *

Present : Mr. Vivek K. Thakur, Advocate for the petitioner.

Mr. Dhruv Dayal, Sr. D.A.G. Punjab.

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A. B. CHAUDHARI, J. (ORAL)

Rule.

Heard forthwith with consent of counsel for the rival parties.

Following is the prayer in the present petition:

“Petition under Section 482 of the Code of Criminal Procedure, for seeking quashing of Kalandra No.95, dated 24.05.2006 (Annexure P- 3), under Section 182 I.P.C., the order dated 16.11.2009 (Annexure P- 4) and the subsequent proceedings arising therefrom including the Order dated 18.12.2015 (Annexure P- 5), in the interest of justice.”

It is not in dispute that on the report lodged by the petitioner FIR No.41 dated 07.10.2004 under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988 against the original accused and thereafter the trial was held after challan was present to the special Court.

The petitioner, who was the complainant according to the prosecution turned hostile to the prosecution and obviously did not support the prosecution case. The anti-corruption case ultimately resulted into acquittal of the accused vide judgment and order dated 20.01.2006. Thus those proceedings came to end and attained finality. Needless to add that the trial Court at the time of acquitting the accused did not take cognizance of the fact about the complainant-petitioner, who turned hostile and did not support the prosecution nor did he take any action against him contemplated under Section 340 and 344 Cr.P.C. The police station officer thereafter i.e. after the judgment of acquittal, registered Kalandara No.95 dated 24.05.2006 (Annexure P- 3) against the petitioner under Section 182 IPC and presented kalandara with the concerned competent Court. It is this kalandara which is under challenge in the present petition.

The principal ground raised by counsel for the petitioner is that the police did not have any authority after completion of trial and judgment of acquittal, to prosecute the petitioner for offence under Section 182 Cr.P.C. He has relied on the Single Bench Judgment passed by this Court in the case of ***Balraj Singh versus State of Punjab, 2006(4) RCR (Criminal) 488.***

Per contra, learned State counsel has opposed this petition and relied on another Single Bench judgment of this Court decided on 01.07.2013 in which it is held that proceedings under Section 344 Cr.P.C. could not have been initiated, but proceedings under Section 182 IPC could have been initiated against the petitioner for giving false evidence before the police and he therefore prayed for dismissal of the petition.

Having considered the rival submission made by counsel for the parties, at the outset, the decision rendered by Single Bench Judge in the ***Ajit Singh versus State of Punjab***, passed in CRR No.895 of 2012 decided in 2013 has no relevance and has no application in the present case. Insofar as the question raised before me by the learned counsel for the petitioner, is concerned, I find that the issue is no more *res integra* in the light of the observations made in para 10 in the case of ***Balraj Singh (supra)*** which reads thus:

“After hearing learned counsel for both the sides and having gone through the facts of the case, in my view the Calendra under Section 182 Indian Penal Code the order Annexure P-6 and all subsequent proceedings initiated against the petitioner deserves to be quashed for a very simple reason that after a full fledged trial, the petitioner could not be booked for giving false information to the police as punishable under Section 182 Indian Penal Code. The prosecution agency could initiate the proceedings against the petitioner for the said offence only during the investigation of the case finding that the information supplied by the petitioner was false but not after submitting of challan under Section 173 Criminal Procedure Code against the accused to face trial. In the case in hand, the position is rather better as during the trial, the petitioner was declared hostile by the

Public Prosecutor and therefore, if his substantive statement was to be dubbed as false evidence, he could, at the most, be booked for the offences punishable under Section 193 or 194 Indian Penal Code that too after giving of verdict against him by the trial Court.”.

Agreeing with the aforesaid decision of this Court, I make the following order:

ORDER

- (i) Rule is made absolute in terms of prayer clause.
- (ii) CRL. MISC. No.M-35083 OF 2016 is allowed.

28th SEPTEMBER, 2017
‘raj’

(A. B. CHAUDHARI)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>