

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

CRM No.M-10494 of 2015 (O&M)

Date of Decision: October 05, 2018

Tehal Singh and another

...Petitioners

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.S.K.Chawla, Advocate
for the petitioners.

Mr.Pawan Sharda, Sr.DAG, Punjab
for the respondent-State.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. for quashing of Calandra under Section 182 IPC which has arisen out of FIR No.02 dated 15.01.2014 under Sections 7 and 13(2) of the Prevention of Corruption Act, registered at Police Station State Vigilance Bureau, Bathinda along with subsequent proceedings arising therefrom.

Notice of motion was issued. Learned State counsel appeared and contested the petition.

I have heard learned counsel for the petitioners as well as learned State counsel and have gone through the record.

The perusal of the record shows that FIR has been got registered by the present petitioner Tehal Singh, who while appearing in the

Court as a witness, has not supported the prosecution version and turned hostile. The perusal of the copy of Calandra which is Ex.P2, on the record states that complete challan was presented before the Court for trial and during the course of trial, complainant Tehal Singh son of Kartar Singh and shadow witness Khushwinder Singh while appearing in the Court, have resiled from their earlier statements and as such, they committed offence under Section 182 IPC, and in connection thereof, orders have been received from the Head Office, Vigilance Bureau, Punjab and order of SSP, Vigilance Bureau, Bathinda Range, who have ordered to initiate action against Tehal Singh and Khushwinder Singh under Section 182 IPC.

The perusal of the record shows that it is not case that any false information has been given to the public servant to use the lawful power of such public servant to the injury or annoyance of any person. Rather, from the record, it looks that it is a case of giving false evidence. For giving or fabricating false evidence in judicial proceedings, the offence is punishable under Section 193 IPC. Sub-section 1 of Section 195 Cr.P.C. provides as under:-

(1) No court shall take cognizance-

(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860), or

(ii) of any abetment of, or attempt to commit, such offence, or

(iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;

(b) (i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have

been committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or

*(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii),
[except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.*

The perusal of above provision shows that if any false evidence is given before the Court, then only cognizance can be taken by the Court on the complaint in writing of that Court or by such officer of the Court as that Court may authorize in writing in this behalf or by some other Court to which that Court is subordinate. In the present case, complaint has not been filed by the Court, therefore, no cognizance can be taken. Otherwise also, on the face of it, the offence is made out under Section 193 IPC instead of 182 IPC.

Therefore, finding merit in the present petition, the same is allowed. Calandra under Section 182 IPC arising out of FIR No.02 dated 15.01.2014 under Sections 7 and 13(2) of the Prevention of Corruption Act, registered at Police Station State Vigilance Bureau, Bathinda along with subsequent proceedings arising therefrom, is hereby quashed.

October 05, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No