

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

**CRM-M-17772-2017
Date of decision: 18.09.2018**

Harinderpal Singh @ Bawa

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Vivek Goel, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Achint Gupta, Advocate
for the victim.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition, filed under Section 482 Cr.P.C., is for quashing of Calendra dated 02.07.2014, under Section 182 IPC, instituted on 11.07.2014 (Annexure P-2), pending in the Court of JMIC, Faridkot.

In brief, the facts are that on 19.02.2014, a complaint was given by the petitioner that he was caused injuries by 4 – 5 persons and he was medico-legally examined in Guru Gobind Singh Medical College and Hospital, Faridkot. On the basis of the statement of the petitioner, DDR No. 44 dated 19.02.2014 was registered under Sections 324, 148 and 149 of the IPC.

Learned counsel for the petitioner submits that though from the injuries mentioned in the MLR, a cognizable offence was made out, however, the police did not register an FIR and only the said DDR was registered and

thereafter, the petitioner filed a criminal complaint dated 10.03.2014 (Annexure P-3), before the Illaqua Magistrate, against the accused persons, under Sections 324, 506 and 120-B of the IPC, in which, vide order dated 10.10.2016 (Annexure P-4), the trial Court, after recording the preliminary evidence, summoned the accused persons to face trial under Sections 324, 506(part 1) and 120-B of the IPC.

Learned counsel for the petitioner submits that in the meantime, the police cancelled the aforesaid DDR No. 44 and submitted the impugned Calendra under Section 182 IPC (Annexure P-2).

It is further submitted that the proceedings initiated by the police, Under Section 182 IPC, are illegal as the accused persons have already been summoned in the aforesaid complaint, therefore, there was no false information given to the police. Learned counsel for the petitioner has thus submitted that the petitioner has filed the aforesaid complaint (Annexure P-3) on 10.03.2014 much prior to submission of impugned Calendra dated 02.07.2017 under Section 182 IPC and, therefore, the proceedings initiated against the petitioner are nothing but the misuse of process of law.

Learned counsel for the petitioner has relied upon **2012 (3) R.C.R. (Criminal) 354, Vishal Singla vs. State of Haryana and others**, wherein, in similar circumstances, when the proceedings under Section 182 IPC were initiated and the accused person has already filed a complaint on the basis of the information so supplied to the police, the Calendra was quashed. Similar view has been taken by this Court in **2015 (35) R.C.R. (Criminal) 166, Bishamber son of Daulta Ram vs. State of Haryana** and **2016 (5) R.C.R. (Criminal) 30, Mst. Farzana vs. State of Haryana and others**.

Reply, by way of affidavit of DSP, Sub-Division, Faridkot, is on

record, in which it is stated that after registration of the DDR, the police has verified the facts and found that there is no substance in the same and, therefore, the police prepared the said Calendra under Section 182 IPC.

Learned counsel for the victim has also opposed the prayer of the petitioner on the ground that as per the inquiry conducted by the police, no such offence was made out.

After hearing learned counsel for the parties, I find merit in the present petition.

The petitioner was medico-legally examined on 19.02.2014 and subsequent thereto, a DDR No. 44 was registered and thereafter, the police conducted the investigation. During the course of inquiry, the petitioner had filed the aforesaid complaint dated 10.03.2014 (Annexure P-3) praying for summoning of the accused persons under Sections 324, 506 and 120-B of the IPC. During the pendency of the said complaint before the Court of JMIC, Faridkot, the impugned Calendra under Section 182 IPC was prepared and submitted before the trial Court. In the meantime, the trial Court, vide order dated 10.10.2016 (Annexure P-4), after recording preliminary evidence, summoned all the accused persons, namely Dhaninder Singh, Harwinder Pal Singh @ Neetu, Baldev Singh, Gurcharan Singh and Gurmeet Singh, and they are facing trial. Therefore, it cannot be said that the information given by the petitioner, forming a basis to register the said DDR No. 44, was false.

During the course of arguments, learned counsel for the petitioner as well as learned State counsel are *ad idem* that on the basis of the subsequent development, the said complaint has been withdrawn as the matter stands compromised.

Be that as it may, in the light of the judgments rendered in the

cases of ***Vishal Singla, Bishamber*** and ***Mst. Farzana (supra)***, the impugned Calendra filed under Section 182 IPC, at the stage when the matter was subjudice before the trial Court and at one point of time, the trial Court even summoned the accused persons to face trial, the continuation of proceedings under Section 182 IPC against the petitioner cannot be legally permitted.

Therefore, in view of the well settled proposition of law, the present petition is allowed and impugned Calendra dated 02.07.2014, filed under Section 182 IPC against the petitioner, along with all consequential proceedings arising therefrom are hereby quashed.

September 18, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No