

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

**Criminal Misc. No. M-5383 of 2015 (O&M)
Date of Decision: October 16, 2018**

Raghubir Singh

.....PETITIONER(s).

VERSUS

State of Punjab and another

...RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. R.K. Handa, Advocate
for the petitioner (s).

Mr. Ramandeep S. Sandhu, Sr. D.A.G., Punjab.

SURINDER GUPTA, J.

This is petition under Section 482 Code of Criminal Procedure (for short Cr.P.C.) seeking quashing of Calendra/complaint under Section 182 of Indian Penal Code (for short, IPC) registered at Police Station City Rajpura, Distt. Patiala, order dated 11.04.2012 (Annexure P-3), whereby application filed by Asstt. Public Prosecutor for return of Calendra has been dismissed and order dated 10.06.2013 (Annexure P-5) framing charge, along with all subsequent proceedings arising therefrom.

Petitioner filed a complaint on 12.08.2008 alleging that Kashmir Singh s/o Maan Singh, Jagdev Singh and Hardev Singh sons of Kashmir Singh took ₹2,50,000/- from him for sending his sister's son Sukhwinder Singh abroad. On Investigation by DSP (D), Rajpura, the allegations levelled in the complaint were found to be false. On the

application of Kashmir Singh dated 25.09.2008, DIG, Patiala Range ordered proceedings under Section 182 IPC against the petitioner. After the initiation of proceeding under Section 182 IPC against the petitioner, he moved an application before I.G. Patiala Zone, which was marked to SSP, Patiala. On inquiry conducted by Superintendent of Police, Patiala, he held the allegations levelled in the application dated 12.08.2008 filed by petitioner as correct and after registration of FIR No.56 dated 05.06.2009 for the offence punishable under Section 420 read with Section 34 IPC at Police Station, Rajpura, against Kashmir Singh and others, final report under Section 173 (2) Cr.P.C was presented in Court.

The police has also moved an application for withdrawal of the proceedings under Section 182 IPC initiated against the petitioner but it was not allowed with observation that Calendra filed under Section 182 IPC would be decided along with the case bearing FIR No.56 dated 05.06.2009.

Learned counsel for the petitioner has argued that after the filing of challan with the report that allegations levelled by the petitioner were found to be correct, there was no occasion to continue with the proceedings under Section 182 IPC initiated against the petitioner on the ground that the allegations levelled in the complaint were found to be false. Officer senior to DSP, Rajpura has set aside his report holding the allegations in his application as false. Once the police has reached the conclusion that the allegations levelled by the petitioner in his complaint were correct, the provisions of Section 182 IPC are not attracted.

Section 182 IPC reads as follows:-

“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.”

The ingredients to make out offence under Section 182 IPC are as follows:-

- (1) The accused gave some information to a public servant;
- (2) Such information was false;
- (3) The accused knew or had reason to believe that such information was false.

Learned State counsel at the very outset has admitted that the allegations in the application of the petitioner were not found to be false, rather the police on the basis of those allegations challaned the accused named in the application filed by the petitioner.

It is a case where a police officer of the rank of DSP in his report finds the allegations in complaint of petitioner as false and recommends proceedings under Section 182 IPC against him. His superior officer of the rank of Superintendent of Police also enquired into that complaint and found the allegations therein as correct. On his report, FIR is registered and challan is filed in Court. After the report of Superintendent

of Police, report of DSP no more survives and consequently the proceedings under Section 182 IPC.

In view of above facts, I am of the considered opinion that continuation with the proceedings under Section 182 IPC is a sheer misuse of process of Court and the same is required to be quashed. Consequently, this petition has merits and is accepted. Calendra under Section 182 IPC presented against the petitioner along with all consequential proceedings is ordered to be quashed.

October 16, 2018
Sachin M.

(SURINDER GUPTA)
JUDGE

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

Whether Reportable: ***Yes/No***