

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

**Crl. Misc. No.M-10537of 2017 (O&M)
Date of Decision: November 20, 2019**

Balvir Singh Sangha

.....PETITIONER(s).

VERSUS

State of Punjab and another

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Jasraj Singh, Advocate
for the petitioner (s).

Mr. Amitoj Singh Dhaliwal,DAG, Punjab.

Mr. J.S. Lalli, Advocate
for respondents no.2 and 3.

SURINDER GUPTA, J.(Oral)

Heard.

The petitioner had sent an e-mail to the police regarding threatening call received by him from PCO in Phagwara having telephone No.911824262922. The e-mail Annexure P-2 is reproduced as follows :-

“I am retired Lt. Col from army who retired in 1997 after putting in 28 years unblemished service and now settled in Pune since 2001. I have two brother who are NRIs since 40 years. One Mr. Yashpal Khanna, a property dealer of Jalandhar had me arrested on 8 Jan 2015 from Pune on wrong and false facts and filed an FIR No.221 dated 3.12.2014 at PS Navibaradari. Well the case is in the courts and we will fight it out but I am writing to you to inform you that on 31 Jan one of his goons rang me up to threaten me of dire consequences for me and my family for taking on Khanna. He left the phone immediately but on ringing up the same number I was

informed that the number belongs to a PCO in Phagwara. The No. is 911824262922. This is for you information as he may harm me and my family during my visit to Jalandhar for court hearings.”

On the complaint of petitioner, enquiry was conducted and the complaint was ordered to be filed vide report dated 19.5.2015. The main reason for disbelieving the allegations in the complaint were that applicant had not given his telephone number on which he received the threatening call. Thereafter on 20.5.2015, Yashpal Khanna filed a complaint against the petitioner and police filed *Calendra* under Section 66 of Police Act on 5.3.2016.

The first contention of learned counsel for petitioner is that *Calendra* filed in the court is barred by limitation as it was filed much after expiry of period of one year of the report dated 23.2.2015 whereby the complaint through e-mail by the petitioner was found to be false. His second contention is that in the e-mail the petitioner has referred about the receipt of threatening call from a PCO in Phagwara having phone No. 911824262922. His contention was discarded merely on the ground that the petitioner has not given his phone number on which call was received. The same could be enquired during enquiry but no attempt was made to take his number.

He has further argued that Yashpal Khanna got an FIR No. 221 dated 3.12.2014 registered at Police Station Navibaradari against the petitioner and that matter has ended in amicable settlement and the FIR was quashed by this court on the basis of compromise.

Learned State counsel has submitted that the complaint was made through e-mail on 1.2.2015 and vide report dated 23.2.2015 it was found to be false and ordered to be filed . The matter was again taken up on the complaint of Yashpal Khanna and delay in filing the complaint took place due to the procedure involved in getting the requisite sanction.

This fact is not disputed that the limitation provided for filing *Calendra* under Section 66 of Police Act is one year from the date commission of offence comes to notice. On enquiry the complaint filed by petitioner was found to be false and report was submitted on 23.2.2015. The *Calendra* which was filed on 5.3.2016 is apparently barred by time.

The Enquiry Officer, ASI Jatinder Kumar has given the report finding the allegations as levelled in complaint of petitioner as false with the observations that the applicant has not given his phone number in the complaint on which he had received the threatening call. It is nowhere referred in his report that he had made attempt to get the phone/mobile number of the petitioner on which threatening call was received. The enquiry appears to have been conducted in a very casual manner and no attempt was ever made by the Enquiry Officer to go to the root of the complaint.

It is not disputed that the FIR got registered by Yashpal Khanna against the petitioner was quashed on the basis of compromise. However, this fact is not of much relevance while deciding this petition.

Keeping in view the fact that the complaint was filed after expiry of period of limitation and the Enquiry report vide which the complaint was found to be false suffers from infirmity, as discussed above, I

Calendra filed under Section 66 of Police Act. This petition has merits and the same is allowed. The *Calendra* and the consequent proceedings arising therefrom are hereby quashed.

November 20, 2019
deepak

(SURINDER GUPTA)
JUDGE

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