

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

CRM-M-21095-2018 (O&M)

Date of decision : 14.11.2019

Surender Kumar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. R.S. Randhawa, Advocate for the petitioners.

Mr. Vikas Chopra, Deputy Advocate General, Haryana.

Ms. Neha Rana, Advocate for
Mr. R.N. Lohan, Advocate for respondent Nos.5 to 10.

ANIL KSHETARPAL, J.

Petition under Section 482 Cr.P.C. has been filed for quashing a complaint/kalandra dated 11.01.2018 filed by the Police Station Sadar, Hisar before Judicial Magistrate Ist Class, Hisar on which the petitioners have been summoned vide notice dated 17.04.2018.

Learned counsel for the petitioners has submitted that the present complaint for initiation of proceedings under Section 182 Cr.P.C. is not maintainable in view of the fact that the complaint which has been filed was lodged in the CM Window and, therefore, the proceedings initiated by the Station House Officer, Police Station Sadar, Hisar is not maintainable. He while referring to Section 182, read with Section 195 Cr.P.C. has submitted that the concerned Station House Officer had no jurisdiction to lodge a complaint. He has relied upon the judgments passed by this High Court in the cases of *Harbans Singh Vs. State of Punjab and another, 1991(3) RCR*

(Criminal) 113 & Malkiat Singh Vs. State of Haryana, 1999(2) RCR (Criminal) 10.

On the other hand, learned counsel for the State has submitted that the present petition is premature as neither the order through which the petitioners have been summoned has been produced nor it is clear as to who had investigated the complaint lodged by the petitioners which was found to be false.

After hearing learned counsel for the parties and going through the paper book, this Court is of the view that the facts as asserted are not very clear. Still further, the order through which the petitioners have been summoned has not been produced. Still further, in the report under Section 182 Cr.P.C., it is apparent that the petitioners have lodged as many as 9 false complaints which upon investigation were proved to be false. In these circumstances, it is considered appropriate to relegate the petitioners to the remedy before the Magistrate with liberty to contest the notice (summons) received. Needless to observe that the petitioners shall be at liberty to take all defences before the Court of Magistrate including the contentions which have been raised by this Court.

Petitioners are also granted liberty to file an application to contest the maintainability of the complaint/kalandra at the initial stage itself.

In view of what has been observed above, the present petition disposed of.

14.11.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No