

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

**Crl. Misc. No. M-40494 of 2015
Date of Decision: July 11, 2019**

Kamal Kishore

.....PETITIONER

VERSUS

State of Punjab and others

.....RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Arshit Goel, Advocate for
Mr. Manuj Nagrath, Advocate
for the petitioner.

Mr. Arpinder Singh Sidhu, D.A.G., Punjab.

Mr. Yogesh Goel, Advocate
for the complainant.

SURINDER GUPTA, J.(Oral)

Heard.

A *Calendra* under Section 66-A of the Punjab Police Act against the petitioner was filed by SHO, Police Station, Division No.7, Ludhiana for filing of false complaint against Rajinder Kumar and others with Commissioner of Police, Ludhiana, on the basis of which FIR for the offence punishable under Sections 406, 342, 323, 506, 120-B Indian Penal Code (for short IPC) was registered. After receipt of report of enquiry conducted by H.C Sudarshan Lal on the complaint of petitioner, fresh enquiry was conducted by A.C.P East, Ludhiana, in which the allegations levelled by the petitioner in his complaint to the Commissioner of Police were found to be false. Thereafter, on the application of Shadi Lal, who was

named as accused in the complaint filed by the petitioner, SHO, P.S. Division No.7, Ludhiana presented a calendra under Section 66-A of the Punjab Police Act.

At the very outset, learned counsel for the petitioner argues that there is no such provision as Section 66-A in the Punjab Police Act, 2007.

Learned counsel appearing for private respondent concedes this fact and states that the relevant section is 66 and has been wrongly mentioned as 66-A in the *Calendra*.

Learned counsel for the petitioner further submits that the complaint was made by the petitioner to the Commissioner of Police, Ludhiana, while this *Calendra* has been filed by SHO, Police Station Division No.7, Ludhiana, who was not competent to file the same as per the provisions of Section 195 Cr.P.C.

Learned counsel for the private respondent submits that the calendra was filed under Section 66 of the Punjab Police Act and not under Section 182 Cr.P.C, as such the provisions of Section 195 Cr.P.C. are not applicable in the case.

Section 66 of Punjab Police Act reads as follows:

66. False or misleading statements made to police officer-

Whoever, makes a false statement or a statement, which is misleading in material particulars, to a police officer for the purpose of obtaining any benefit, shall on conviction, be punished with imprisonment for a term, which may extend to six months or with fine, not exceeding rupees ten thousand or with both.

The Police Act referred above does not prescribe the mode in which the complaint/*Calendra* as per the provision of Section 66 could be filed. Section 83 of the Act specifically provides that the provisions of the

Punjab Police Act, 2007 shall apply so far as there are not in consistent with the provisions of Code of Criminal Procedure.

In view of the above specific provisions, Section 195 Cr.PC is applicable with regard to mode of filing the complaint as it relates to giving of false information to a public servant. Section 195 Cr.P.C. specifically bars the filing of complaint for such offence as mentioned therein except on the complaint in writing by the officer or his superior officer to whom such false complaint has been made. In this case complaint was made to Commissioner of Police, Ludhiana, but *Calendra* under Section 66 Police Act was filed by SHO, Police Station, Division No.7, Ludhiana, who was not competent to file the *Calendra* against the petitioner. This petition has merits, as such, is allowed and consequently *Calendra* under Section 66-A of the Punjab Police Act along with all consequential proceedings arising therefrom, qua petitioner is ordered to be quashed.

July 11, 2019
Jyoti-II

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No