

CRM-M-20254-2019 (O&M)

Date of decision:06.05.2019

Suresh Kumar Jhamb

...Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Ajay Pal Singh Srawaan, Advocate
for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

Prayer in the present petition is for issuance of directions to respondents No.2 and 3 to act upon detailed inquiry dated 04.07.2018 conducted by ASI Nirmal Singh (Economic Offence Wing City-2), Bathinda with further prayer that respondent No.3 be directed not to order multiple inquiries in gross violation of order dated 12.01.2009 passed by Hon'ble High Court in CRM-M-18244-2008 as well as the Notification No.137-223/PA/DGP/ Chandigarh dated 01.04.2008.

In the complaint filed by respondents No.4 and 5 with the police, the petitioner is alleged to be a travel agent who is alleged to have cheated them in the name of sending them abroad. Obviously, there have been allegations against the petitioner. However, on those allegations, the police have not registered any FIR so far. The police is stated to have conducted only the inquiry, in which, the petitioner is stated to have been exonerated. However, it is the apprehension of the petitioner that; instead of acting upon that inquiry, the police have started inquiry afresh; on the complaint of still another person. Hence, the present petition has been filed seeking direction to the police to finally act upon the first inquiry report.

which has come in favour of the petitioner, and not to hold another inquiry on complaint of another person.

However, this Court finds that the present petition is totally without any substance. The Code of Criminal Procedure does not contemplate any inquiry by the police officials, except for some specified purposes mentioned in the specified provision of Cr.P.C., in case of complaint disclosing cognizable offence is made to the police. Even those purposes are limited to the inquiry contemplated by those specified provisions. So far as the complaint, disclosing cognizable offence, is concerned, there is no power with the police to hold any inquiry of any kind. Although, the Hon'ble Supreme Court in case of ***Lalita Kumari Vs. Govt. of U.P. and others, 2012(2) RCR(Crl.) 188***, has given indication that in case an offence is not clearly disclosed from the allegations contained in the complaint, the police may hold any inquiry to find out whether the offence is disclosed or not. However, by any means, the said judgment of Hon'ble the Supreme Court cannot be read to mean that the police would hold the full-fledged inquiry to find out truth in the allegations contained in the complaint, before registration of the FIR. The ambit of the direction of the Hon'ble Supreme Court in case of Lalita Kumari's case (Supra) is limited to find out whether any offence is 'disclosed or not' and not to find out whether any offence is 'made out' against the person or not. Therefore, before registration of FIR any inquiry cannot be held by the police to assess the truth in the allegations for the purpose of exonerating of one person or to find a guilt against another person. In this regard, the direction issued by the Hon'ble Supreme Court is being totally misunderstood. The direction issued

by the Hon'ble Supreme Court in Lalita Kumari's case (Supra), at the best, means that if the complaint, being filed by a layman, is not clear enough to disclose the ingredients of any offence, then the police at the best, can take some kind of statement from the complainant to clarify his allegations, so as to find out what he wants to say in allegations & to find out whether any offence is disclosed in the allegations or not. Hence, the inquiry, which is claimed by the petitioner in his support, is totally an extra statutory exercise by the police, having no legal sanction behind it. Therefore, this Court simply cannot recognize any such inquiry, conducted by the police, for any legal purposes whatsoever.

Otherwise also, if the petitioner claims that one inquiry has been validly held by the police and in that inquiry, he has been found to be innocent, thereafter, the petitioner is estopped from seeking any direction against the police not to conduct any other inquiry. If the police is entitled to conduct one inquiry, as per the petitioner, then there is no bar that the police cannot conduct another inquiry as well. The police may continue to hold infinite inquiries, but neither Cr.P.C. recognizes such inquiries, nor the Court can lend credence to any such inquiry by recognizing the same.

In view of the above, this Court does not find any ground to interfere in the present petition.

Dismissed.

(RAJBIR SEHRAWAT)
JUDGE

06.05.2019

Hemlata

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No