

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

CRM No.M-43133 of 2016 (O&M)

Date of Decision: April 09, 2019

Shubh Ram

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Dhruv Sihag, Advocate
for the petitioner.

Mr.Chetan Sharma, AAG, Haryana
for the respondent-State.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against respondent State of Haryana for quashing of Kalandra dated 19.12.2014 filed in pursuance of DDR No.38 dated 19.12.2014 under Section 182 IPC, summoning order dated 23.12.2014 and notice of accusation served upon the petitioner vide order dated 06.05.2015 passed by learned SDJM, Kosli.

Notice of motion was issued. Learned State counsel appeared and contested the petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

At the time of arguments, learned counsel for the petitioner

only argued on one point that petitioner had filed the complaint to the DSP, which was marked to SHO for investigation/enquiry and which has been found false by the SHO. Kalandra has been presented by the SHO. Learned counsel for the petitioner argued that as per Section 195 Cr.P.C., the Kalandra under Section 182 IPC can be filed only by the officer to whom the complaint has been made or by superior officer and not by inferior officer. Learned counsel for the petitioner cited judgment passed by the Hon'ble Supreme Court in *P.D.Lakhani and another vs. State of Punjab and another, 2008(2) RCR (Criminal) 838*, in which, criminal complaint was made to SSP, who sent the same to SHO and SHO, finding the complaint false, filed a complaint under Section 182 IPC before Magistrate. The complaint was dismissed and it is held that no complaint could be lodged by SHO. Under Section 195 Cr.P.C., complaint could be filed either by SSP or his superior officer and not by inferior officer.

In view of the above law laid down by the Hon'ble Supreme Court, I find that complaint filed in this present case by the SHO is not maintainable.

Therefore, finding merit in the present petition, the same is allowed. Kalandra under Section 182 IPC in DDR No.38 dated 19.12.2014, summoning order dated 23.12.2014 along with all subsequent proceedings arising therefrom, are hereby quashed.

April 09, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No