

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

(i) CRM No.M-6345 of 2016 (O&M)

Narsi Ram

...Petitioner

VERSUS

Kanhaiya Lal and another

...Respondents

(ii) CRM No.M-24981 of 2016 (O&M)

Kanhaiya Lal

...Petitioner

VERSUS

Narsi Ram and others

...Respondents

Date of Decision: February 08, 2019

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Wazir Singh, Advocate
for the petitioner (in CRM No.M-6345 of 2016).

Mr.Rakesh Nagpal, Advocate
for the petitioner (in CRM No.M-24981 of 2016) and
for respondent No.1. (in CRM No.M-6345 of 2016).

Mr.Navdeep Singh, AAG, Haryana
for the respondent-State.

INDERJIT SINGH, J.

Both the above-mentioned cases are taken up together as point
for determination in these cases is the same.

Narsi Ram has filed the petition i.e. CRM No.M-6345 of 2016

Magistrate Ist Class, Bhiwani, vide which, charges under Sections 193, 199, 200 and 418 IPC have been framed against him in criminal complaint No.18/09 dated 22.01.2009 as well as judgment dated 29.01.2016 passed by learned Addl. Sessions Judge, Bhiwani, vide which the revision petition filed by the petitioner was dismissed.

Petitioner Kanhaiya Lal has filed the petition i.e. CRM No.M-24981 of 2016 for quashing of order dated 10.02.015 passed by learned Judicial Magistrate Ist Class, Bhiwani, vide which, charges under Sections 406, 409 and 420 IPC have not been framed against respondent No.1 and respondent No.2 has been discharged as well as judgment dated 29.01.2016 passed by learned Addl. Sessions Judge, Bhiwani, vide which the revision petition filed by the petitioner was dismissed.

Notice of motion was issued in both the petitions. Learned State counsel as well learned counsel for respective respondents have appeared and contested the petitions.

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

From the perusal of the complaint, I find that Kanhaiya Lal complainant filed a criminal complaint against Narsi Ram, Ex-Labour Inspector and Mahesh Kumar, Engineer-in-Chief, PWD (B&R) under Sections 193, 199, 200, 406, 409, 418 and 420 IPC. As per averments in the complaint, the complainant was working as Store Munshi since 01.11.1986 under the control of accused No.2, when he was Executive Engineer and accused No.1 is a retired Labour Inspector from the office of Labour Officer, Bhiwani. The services of the complainant were terminated by

accused No.2 w.e.f. 01.06.1993 verbally without issuing any notice. Being

aggrieved with illegal termination of his services, the complainant challenged the same under provisions of Industrial Disputes Act and Award was passed in his favour. Then, in compliance of the above-said Award dated 22.04.1999, accused No.2 issued a letter bearing endorsement No.3408 dated 24.11.1999 to the complainant for reporting for his duty but the complainant was not allowed to join his duties. The complainant took the matter with accused No.1 being Labour Inspector, Bhiwani and accused No.1 made complaint on behalf of State of Haryana against accused No.2 under Industrial Disputes Act for non-implementation of Award but later, the accused No.1 withdrawn the same by making statement that the Award has been complied with and the complaint was dismissed as withdrawn.

After perusing the averments of the complaint, I find that accused No.1 Narsi Ram and accused No.2 Mahesh Kumar were performing their official duties and whatever act they have done, that was done while discharging official duties, but before filing the complaint or before taking cognizance by the Court in the complaint, no sanction under Section 197 Cr.P.C. has been obtained by the complainant. It is settled law that even after retirement of the public servant, sanction under Section 197 Cr.P.C. is required for the acts done as public servant while performing official duties or in discharge of official duties. In the present case, admittedly, no sanction has been taken before filing of the complaint or before the Court took cognizance in the complaint, therefore, due to want of sanction, the Court cannot take cognizance in the present case.

In view of the above discussion, I find that the order dated 10.02.2015 passed by learned JMIC, Bhiwani, is illegal and the same is set

aside.

Therefore, finding merit in CRM No.M-6345 of 2016 filed by Narsi Ram is allowed. Criminal complaint No.18/09 dated 22.01.2009, order dated 10.02.2015 passed by learned JMIC, Bhiwani and all subsequent proceedings arising therefrom, are hereby quashed.

As regarding the petition filed by Kanhaiya Lal for framing the charge for other offences against Narsi Ram and also framing of the charges against Mahesh Kumar, who was Engineer-in-Chief, I find that this petition has no merit as the complainant has not obtained sanction under Section 197 Cr.P.C. before filing the complaint. Therefore, finding no merit in CRM No.M-24981 of 2016 filed by Kanhaiya Lal, the same is dismissed.

February 08, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No