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

CRM-M-45704-2021

Date of decision:08.02.2022

KULDEEP SINGH

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. A.P.S. Chaudhary, Advocate
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

Mr. Amrit Singh Kang, Advocate
for respondents No.4 and 5.

(Through Video Conferencing)

SURESHWAR THAKUR, J. (ORAL)

1. Since various applications are alleged to be submitted by the co-respondents No.4 and, 5 against the petitioner, before the police authorities concerned, and, theirs resulting in the police agencies concerned, repeatedly summoning the petitioner. Therefore, the petitioner avers, that he is being unnecessarily harassed. Furthermore, he also avers, that all the applications, as preferred by co-respondents No.4 and 5 before the police agencies concerned, are frivolously made, and, qua the applications concerned, he claims the making of a mandamus upon, the official respondents, to draw proceedings under Section 182 IPC against co-respondents No.4 and 5.

2. *Prima-facie* the afore asked for mandamus cannot at this stage, be granted to the petitioner, as any application containing allegations against the petitioner, and, as become preferred by co-respondents No.4 and 5, before the

police agencies concerned, even if it is frivolous or false, yet it is required to be investigated into, and, if after investigation being carried into the allegations made against the petitioner by co-respondents No.4 and 5, no case is made out against the petitioner, thereupon, the investigating officer would be led to file a closure report before the learned Magistrate concerned. Though, even in the face of the above event taking place, and, though, yet the petitioner would become exonerated. However, even then agony, and, trauma would yet become hence encumbered upon the petitioner, from, his facing the ordeal of his regularly appearing before the police agency concerned, upon, his being summoned by them, for theirs making investigations into the allegations levelled against him, by co-respondents No.4 and 5. However, in respect of the above, the petitioner may avail a civil remedy, inasmuch as, his instituting a suit for damages before the learned Civil Court concerned.

3. Be that as it may, the purported completest falsity in the allegations levelled against the petitioner, by co-respondents No.4 and 5, may not constrain this Court to grant the espoused mandamus, unless the police agencies concerned, despite evidently making a firm conclusion, that hence co-respondents No.4 and 5 have committed an offence constituted under Section 182 IPC, theirs yet not taking any further legal action thereons. The above evidence is amiss. Therefore too, it may not be appropriate for this Court to, proceed to usurp the jurisdiction of the investigating agency concerned, to after theirs making the relevant investigations, into the *subjudice* application, theirs making or not any conclusion, whether the allegations concerned, being completely false or not, and, that , hence an offence under Section 182 IPC becoming or not becoming committed by co-respondents No. 4 and 5.

4. Therefore, when the jurisdiction with respect to the above, is vested in the police agency concerned, and, may not be exercisable at this stage, by this Court, through the instant petition cast under Section 482 Cr.P.C. Furthermore, since in the reply made to the petition by the official respondents, it is contended that in the applications, which fell for investigation by the investigating agency concerned, there is reference to certain civil disputes, being underway *inter-se* the petitioner, and, co-respondents No.4 and 5, hence before the Civil Courts concerned. Therefore, even if the co-respondents No.4 and 5 have proceeded to, alongwith theirs re-coursing the civil remedy concerned, rather galvanize the police machinery, yet too on the afore score the co-respondents No.4 and 5, cannot *prima-facie* be concluded to commit an offence under Section 182 of the IPC.

5. In addition, the reply on affidavit placed before this Court, by the official respondents concerned, discloses that there is no recommendation made by the investigating officer concerned, to initiate proceedings under Section 182 IPC against co-respondents No.4 and 5. The above made conclusion cannot be interfered with by this Court, unless there is tangible material, completely, and, candidly suggestive, that in the co-respondents No.4 and 5 galvanising the criminal machinery rather theirs doing so, to harass the petitioner, through theirs filing false applications against the petitioner. The afore evidence obviously is amiss, rather the applications concerned, are disclosed on the reply on affidavit, to embody disputes which are *subjudice* before the learned Civil Courts concerned.

6. Pre-dominantly since a perusal of the reply on affidavit furnished to the petition by the official respondents, also discloses, that a majority of the applications filed against the petitioner by co-respondents No.4 to 5, have been

compromised. Therefore, also this Court, does not deem it fit to allow this petition. Contrarily, it is deemed fit to accept the reply on affidavit furnished to the petition by the official respondents.

7. Accordingly, the petition is disposed of with Giving liberty to the liberty to recourse civil remedies, if any, before the learned Civil Court concerned. Moreover, no direction can be passed either against official respondents nor against co-respondents No.4 to 5 to do not hereinafter file applications against the petitioner as thereupon, this Court would be impermissibly forestalling the remedies, available under law to the co-respondents No.4 and 5.

8. Disposed of.

(SURESHWAR THAKUR)
JUDGE

08.02.2022

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Whether speaking/reasoned:-	Yes/No
<i>Whether reportable:</i>	<i>Yes/No</i>