

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-15976-2021 (O&M)

Date of Decision: 08.02.2023

Inderjit Dhamija

.... Petitioner

Versus

Sate of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Parminder Singh, Advocate for the petitioner.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 482 Cr.P.C. for quashing Kalandra under Section 182 IPC lodged against the petitioner vide DD No. 16 dated 14.09.2019 (Annexure P-1) at Police Station Civil Lines, Karnal, in violation of procedure prescribed under Section 195 Cr.P.C., despite the fact that the complaint moved to the Superintendent of Police, has wrongly made the basis for filing Kalandra by the concerned SHO, overlooking the factum of previous inquiries and pending petitions for quashing of FIR lodged by complainant-Subhash Trehan; acquittal of the petitioner in false complaint under Section 138 of the Negotiable Instruments Act, 1881.

Briefly stated the facts, giving rise to filing of the petition are that petitioner-Inderjit Dhamija, is the authorized signatory of J.D. University Infra Limited as well as Dhamija & Company. The petitioner had plotted a site for residential purpose in its name JD Universal (Jaydee

Green City Karnal). One Subhash Trehan, deposited Rs.10,00,000/- i.e. Rs.3,00,000/- with Dhamija & Company (Builders) vide receipt No. 498/170 dated 18.01.2011; Rs.2,00,000/- on 19.11.2011 vide receipt No. 505/170 and Rs.5,00,000/- on 27.01.2011 vide receipt No. 520/70 to Dhamija & Company, for purchasing two plots measuring 10 marlas each in Jaydee Green City, Karnal. But the petitioner neither gave plots to the complainant nor returned his amount, rather filed false complaint against the complainant-Subhash Trehan, bearing No. 2993 CMISE, dated 14.06.2016 (Annexure P-2), 424P-111, dated 24.06.2016, 440P-111 dated 25.06.2016, in order to put pressure upon him and to grab his money. The investigation of the above mentioned complaint was conducted. After thorough investigation, it was concluded that the allegations levelled by the petitioner against complainant-Subhash Trehan were found to be false and frivolous and precious time of the police had been wasted by the petitioner. In view of the above said recommendation, impugned Kalandara under Section 182 IPC was lodged against the petitioner at Police Station Civil Lines Karnal, vide DD No. 16 dated 14.09.2019 (Annexure P-1). Feeling aggrieved, the petitioner has filed the present petition.

Learned counsel for the petitioner, *inter alia* contends that the complaint/representation dated 14.06.2016 (Annexure P-2) filed by the petitioner, on inquiry by the police, was found to be false. The Kalandra/complainant under Section 182 IPC was lodged against the petitioner on 14.09.2019, whereas the said inquiry was concluded on 18.05.2016, after the expiry of the prescribed period of limitation of 1

year, hence, the same is barred by period of limitation. He further contends that the complaint/representation Annexure P-2 of the petitioner was addressed to S.S.P., Karnal whereas the present Kalandra has been filed against the petitioner by the SHO concerned. According to Section 195 Cr.P.C, complaint/Kalandra could either be filed by the SSP or his superior officer. The complaint/Kalandra filed by the SHO is liable to be quashed, being an abuse of the process of law. In support of his contentions, learned counsel for the petitioner has placed reliance upon judgments of this Court in ***CRM-M-50176-2018, Shikha Kondal vs. State of Punjab, decided on 06.02.2020*** and ***Amir Chand vs. State of Punjab and another, decided on 18.12.2019.***

On the other hand, learned counsel for the State vehemently opposing the submissions of learned counsel for the petitioner argued that the petitioner had given false information to the Police and thereby committed the offence punishable under Section 182 of the IPC. Therefore, the instant petition may be dismissed.

I have learned counsel for the parties and carefully gone through the record.

Before advertng to the arguments of learned counsel for the parties, it would be relevant to first refer to the statutory provisions.

Section 182 of the IPC, which prescribes the punishment for giving of false information, with intent to cause public servant to use his lawful power to the injury of another person, reads as under:-

“182. False information, with intent to cause public servant to use his lawful power to the injury of another person.-

Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Sections 468, 469 and 473 of the Cr.P.C., which are relevant to the question of period of limitation for filing of complaint under Section 182 of the IPC, computation thereof and condonation of delay, read as under:-

468. Bar to taking cognizance after lapse of the period of limitation.—

(1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be—

(a) six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.

469. Commencement of the period of limitation.—

(1) The period of limitation, in relation to an offence, shall commence,—

(a) on the date of the offence; or

(b) where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or

(c) where it is not known by whom the offence was

committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier.

(2) In computing the said period, the day from which such period is to be computed shall be excluded.

473. Extension of period of limitation in certain cases.-
Notwithstanding anything contained in the foregoing provisions of this Chapter, any Court may take cognizance of an offence after the expiry of the period of limitation, if it is satisfied on the facts and in the circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interests of justice.”

In the present case, the petitioner had filed a complaint/representation (Annexure P-2) on 14.06.2016 which on inquiry by the police, was found to be false. Complaint/Kalandra under Section 182 of the IPC was filed against the petitioner on 14.09.2019. The offence of giving false information with intent to cause public servant to use his lawful power to the injury of another person is punishable under Section 182 IPC with imprisonment for a term which may extend to six months or with fine which may extend to Rs.1,000/- or with both. Section 468 Cr.P.C. mandates that no Court shall take cognizance of an offence beyond the period of limitation of one year if the offence is punishable with imprisonment for a term not exceeding one year. The Apex Court in ***State of Punjab Vs. Sarwan Singh : 1981 CrL. L.J. 722***, has held that the object of the Cr.P.C. in putting a bar of limitation on prosecution was clearly to prevent the parties from filing cases after a long time, as a result of which the material evidence may disappear and also to prevent abuse of the process of the court by filing vexatious and belated prosecutions long after the date of offence. This Court in ***Harbhajan Singh Bajwa Vs. Senior Superintendent of Police, Distt. Patiala and***

another : 2000(3) RCR (Criminal) 94; has observed that the offence under Section 182 of the IPC is complete when the complaint is found to be false. Therefore, it is the date for starting limitation when the investigating agency concludes the investigation and finds the averments in the complaint are false. As per Section 469 Cr.P.C. where the commission of the offence is not known to the person aggrieved by the offence or to any police officer the limitation will start on the first day on which such offence comes to the knowledge of such person or police officer, whichever is earlier. Therefore, when the police officer finds that the complaint was false, it is that date when the limitation starts. In view of the above referred judicial precedents taking of cognizance against the petitioner of offence punishable under Section 182 IPC on the basis of complaint filed against the petitioner, after expiry of the period of limitation of one year as prescribed under Section 468 of the Cr.P.C. is barred by limitation.

More so, as per Section 195 Cr.P.C., the Kalandra/ complainant 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. The Hon'ble Supreme in **P.D.Lakhani and another vs. State of Punjab and another, 2008 (2) RCR (Criminal) 838**, held that criminal complaint was sent to SSP and SHO found that complaint was false and filed a complaint under Section 182 IPC before Magistrate against the complainant. Complaint was dismissed by observing 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 discussed facts and circumstances of the case and also the above referred judicial pronouncements on the subject, the complaint/Kalandra lodged against the petitioner under Section 182 Cr.P.C., vide DD No. 16 dated 14.09.2019 (Annexure P-1) at Police Station Civil Lines, Karnal and all subsequent proceedings arising therefrom are hereby quashed qua the petitioner only.

The instant petition stands allowed.

Since, the main petition has been disposed of, therefore, no separate order is required to be passed in the miscellaneous application(s) pending, if any and the same also stand disposed of.

08.02.2023
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(ASHOK KUMAR VERMA)
JUDGE

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