

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

**Neutral Citation No.: 2023:PHHC:066071
CRM-M-28276-2017 (O&M)
Date of Decision: 08.05.2023**

Chaman Singh and Others

.....Petitioners

Vs.

State of Punjab and Another

.....Respondents

CORAM: - HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. J.S. Dadwal, Advocate for the petitioner.

Mr. Parneet Singh Pandher, AAG, Punjab.

Mr. Arnav Sood, Advocate for respondent No.2.

DEEPAK GUPTA, J.

Prayer in this petition filed under Section 482 Cr.P.C. is to quash Kalendra registered vide DDR No.13 dated 12.05.2017 under Section 182, 120-B of the IPC registered at Police Station Bulowal, District Hoshiarpur and all subsequent proceedings arising therefrom.

2. The facts, as emerge from the reply of the respondent-State, are that Jaswinder Singh allegedly in connivance with petitioner No.1 had submitted an application to the Punjab State Human Right Commission making allegations against respondent No.2 to have used anti caste words in presence of co-villagers. The application was marked to SP (Headquarter) Hoshiarpur, who on necessary enquiry found the complaint to be false and sent the enquiry report to Punjab State Human Right Commission in this regard. Petitioner then filed a criminal complaint against respondent No.2 and one Sukhdev Singh under Section 3 of The Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act), 1989 and Section 153, 500/34 of the IPC in the Court of Learned Chief

CRM-M-28276-2017 (O&M)

Judicial Magistrate, Hoshiarpur. Same was dismissed on 27.02.2017.

Respondent No.2 then moved an application dated 03.05.2017 under Section 182 of the IPC to SSP Hoshiarpur and on that basis, Kalendra under Section 182 IPC vide DDR No.13 dated 12.05.2017 registered at Police Station Bulowal, District Hoshiarpur, was presented by SHO P.S. Bulowal against Jaswinder Singh and petitioners in the Trial Court at Hoshiarpur.

3. Amongst other grounds pleaded to quash the Kalendra in question, it is contended that no offence under Section 182 of the IPC is made out. Kalendra has been presented by SHO Police Station Bulowal, whereas the alleged complaint found to be false had been made before Punjab Human Right Commission. Besides, the complaints to Human Right Commission had been made way back in April and May, 2012 and the enquiry report dated 18.06.2012 (Annexure P-11) was submitted by the Senior Superintendent of Police, Hoshiarpur to the Punjab State Human Right Commission on 27.06.2012 and therefore, the Kalendra filed on 12.05.2017 is barred by limitation.

4. Refuting the aforesaid contention, it is submitted by learned State counsel along with counsel for respondent No.2 that limitation will start from date of acquittal of the respondent No.2 in the criminal complaint.

5. Having considered submissions of both the sides, I find merit in the petition.

6. Section 182 of the Indian Penal Code reads as under:

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

CRM-M-28276-2017 (O&M)

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.”*

7. As is clear from the abovesaid provision, it is the public servant concerned to whom the false information is given, who can be the aggrieved person so as to file the complaint under Section 182 IPC. This will become further evident from Section 195(i) (a) of the Code of Criminal Procedure which reads as under: -

195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.

(1) No Court shall take cognizance-

(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860), or

(ii) of any abetment of, or attempt to commit, such offence, or

*(iii) of any criminal conspiracy to commit such offence, **except on the complaint in writing of the public servant concerned** or of some other public servant to whom he is administratively subordinate;..... ”*

CRM-M-28276-2017 (O&M)

8. It is thus clear that no Court shall take cognizance of any offence punishable under Section 182 of the Indian Penal Code except on the complaint in writing of the concerned public servant or of some other public servant to whom he is administratively subordinate.

9. In *Vipan Kumar Khurana v. Manjit Kaur 2010(1) R.C.R. (Criminal) 515*, complaint was made to S.S.P. and D.I.G. to the effect that police was harassing the complainant and her family members unnecessarily. On enquiry conducted by DSP, the allegations were found false and, on his recommendation, SHO presented the Kalendra under Section 182 IPC against the complainant. It was held by this High Court that SHO was not competent to file the complaint against the accused in view of Section 195(1) Cr.P.C. as the same could have been filed only by S.S.P. or D.G.P. or by an officer to whom they were administratively subordinate.

10. In the present case, the complaint which was found to be false had been made allegedly by Jaswinder Singh in connivance with petitioner No.1 to Punjab State Human Right Commission and not to SHO Police Station Bulowal, who filed the Kalendra under Section 182 IPC. For this reason itself, the Kalendra deserves to be quashed.

11. There is another reason to accept the revision. The complaints to Human Right Commission had been made in April and May, 2012. Enquiry Report dated 18.06.2012 (Annexure P-11) was filed by the SSP Hoshiarpur on 27.06.2012. Simply because later on criminal complaint was filed by petitioner No.1 before the Court of learned JMJC, Hoshiarpur, which was dismissed on 27.02.2017 will not give a fresh cause of action. Rather the cause of action arose, when the complaint

CRM-M-28276-2017 (O&M)

given by the petitioner was found to be false as per the Enquiry Report dated 18.06.2012.

12. Offence under Section 182 of the Indian Penal Code is punishable up to 6 months imprisonment. Section 468 of the Code of Criminal Procedure prescribes a limitation period of one year within which cognizance can be taken of an offence which is punishable with imprisonment for a term not exceeding one year. For this reason also, the Kalendra being clearly barred by limitation, is liable to be quashed.

13. In *Harbhajan Singh Bajwa v. Senior Superintendent of Police, District Patiala and another 2000(3) R.C.R.(Criminal) 94* complaint was lodged with the police which was found to be false and the cancellation report was submitted in the year 1997. It was held that limitation of one year would start to prosecute the complainant under Section 182 IPC, when the police filed cancellation report and not when the Magistrate accepted the cancellation report in October, 1999. Prosecution of the complainant in October, 1999 was held to be barred by time under Section 468 Cr.P.C.

14. In view of the factual and legal position as above, this petition is hereby accepted. The Kalendra registered vide DDR No.13 dated 12.05.2017 under Section 182, 120-B of the IPC at Police Station Bulowal, District Hoshiarpur and all consequent proceedings arising therefrom, are hereby quashed.

May 08, 2023

Neetika Tuteja

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No