

CRR-2609-2010

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212 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRR-2609-2010

Date of Decision: 01.12.2023

KRISHAN LAL

...Petitioner

V/S

STATE OF HARYANA AND ANR.

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. D.S. Khurana, Advocate
for the petitioner.

Mr. I.P.S. Sabharwal, DAG Punjab.

Mr. Puran Singh Hundal, Sr. Advocate with
Mr. Gursahib Singh Hundal, Advocate and
Mr. Ankush Chauhan, Advocate for respondent No. 2.

HARPREET SINGH BRAR J. (Oral)

1. Petitioner has approached this Court by filing the present revision revision petition under Section 401 Cr.P.C. by challenging the order passed by learned Additional Sessions Judge, Karnal dated 16.08.2010, which the summoning order passed by learned Judicial trial Court dated 11.02.2004 was set aside.

2. Brief facts of the present case are that previously he filed a criminal complaint in the court of Sh. Lal Chand, Judicial Magistrate Ist Class, Karnal titled as 'Krishan Lal Vs. Harmit etc.', under sections 420/419/418/465/468/471 & 120-B of Indian Penal Code and the said complaint was sent to concerned police station for registration of the FIR under section 156 (3) Cr.P.C. when the complainant had gone to police post Sector 13, Karnal to enquire about his complaint, then concerned chowki Incharge Sheetal Kumar who is accused no.1 in the present case had pressurized him to compromise the matter, and had also snatched the

registration certificate of Maruti Car bearing registration no HR-05K-6003 which was in the name of father of the complainant. It has been further contended by the complainant that accused Sheetal Kumar had asked him to make the payment of a challan which was in the name of unknown person.

3. When the complainant had gone to the office of DTO Karnal to deposit the fine of the said illegal challan and in order to get the registration certificate of the car of his father, then he did not find the challan as well as the registration certificate in the office of DTO Karnal. Subsequently the complainant had tried to search those documents in the office of Superintendent of Police, Karnal and police post Sector 13 Urban Estate, Karnal, but he could not succeed. In these circumstances, he had filed another complaint in the court of Sh. Lal Chand Judicial Magistrate Ist Class, Karnal. That subsequently the complainant had come to know that registration certificate of his car was lying in the office of DTO, Karnal in connection of a challan of Hero Honda Motorcycle, whereas on the challan chit registration number of the car was mentioned. The complainant had to make the payment of the penalty against the said motorcycle against the receipt no. 83 dated 19-9-2002. It has been further maintained by the complainant that the registration certificate of the car was snatched by accused no.1 on 23-3-2002, whereas the challan was concerning for 20-3-02002, which had done malafidely by the accused persons. In the meantime, the car bearing no. HR-05K-3827 was lifted by the accused no.2 namely Phool Kumar from the shop of the complainant, which is situated at Sector 12 in the name of Sankar Property and the same was impounded by the police illegally and

unlawfully and he had threatened the complainant that if he does not compromise the matter with regard to a criminal complaint titled as Krishan Lal versus Harmit etc., then both the accused persons will involve him in a false case. Since the complainant was badly threatened by the accused persons, hence he has moved a petition under Section 438 Cr.P.C. for anticipatory bail in the court of Learned Sessions Judge, Karnal wherein accused Sheetal had made a statement that no matter was pending against him. The complainant had sent numerous letters against the accused persons, which were addressed to Police Officers as well as Hon'ble Chief Justice of Punjab & Haryana High Court etc., but no action was taken against him.

4. The complainant examined himself as CW-1 and reiterated the submissions made in the complaint. He also examined Parveen Kumar as CW-2, Sawinder Singh as CW-3, Constable Shiv Kumar as CW-4 and Mahabir Singh as CW-2 and all the witnesses supported the case of the complainant. The petitioner has relied upon Ex. C-1 to Ex. C-13 and photocopies of certain documents were marked as C-1 to C-4. Learned Judicial Magistrate Ist Class, Karnal, after appreciating the evidence produced by the petitioner, summoned the private respondent under Section 217, 218, 506, 120-B of IPC vide order dated 11.02.2004. The private respondent challenged the summoning order dated 11.02.2004 before learned Additional Sessions Judge, Fast Track Court, Karnal and the revision petition filed by the private respondent was allowed and the summoning order dated 11.02.2004 was set aside.

5. Learned counsel for the petitioner inter alia contends that the reasoning given by learned Additional Sessions Judge, Karnal is

erroneous as the facts of the case clearly indicate that the sanction under Section 197 of IPC is not required. Judgments relied upon by the learned trial Court in *Sukhdev Singh and Others Vs. State of Haryana* 2006(3) RCR (Criminal) 633 is not applicable to the facts and circumstances of the present case. Learned counsel for the petitioner has further relied upon *Romesh Lal Jain Vs. Naginder Singh Rana and Others* AIR 2006 SC 336, *P.K. Pradhan Vs. The State of Sikkim* 2001(3) RCR (Criminal) 835. Learned counsel further contends that learned Additional Sessions Judge, Karnal has not considered the case of the petitioner in the right earnest and fell in error in passing the impugned order only on the ground that the sanction under Section 197 of Cr.P.C. against the private respondent was not taken.

6. Learned Sr. counsel for the private respondent contends that the summoning order was passed under Sections 217, 218, 506 and 120-B of Indian Penal Code. The petitioner has not challenged the summoning order as the complaint was filed under Sections 419, 420, 467, 471, 468, 469 of IPC as well and there is nothing on record to indicate that the offences under Sections 217 and 218 of of IPC is made out. Section 217 of IPC provides that if a public servant knowingly disobeys any direction of law with intent to save a person from punishment or property from forfeiture, he would be punishable with imprisonment, which may extend to two years. Section 218 of IPC provides that if a public servant is obligated for preparation of any record and prepares incorrect record with intent to cause loss or injury to the public or any person, he would be liable for punishment which may extend to three years. The private respondent was discharging his official

duty and challaned the petitioner for traffic violation of Motor Vehicle Act and the compounding fees of the challan was also made. In view of the facts and circumstances of the allegations levelled in the complaint, the sanction under Section 197 of IPC was necessary before taking cognizance and issuing process against the private respondent under Section 204 of Cr.P.C.

7. Having heard the learned counsel for the parties and after perusing the record of the case it transpires that Ex. C-12 is the challan for traffic violation of vehicle bearing registration No. HR-05K-3827 at Sr. No. 471 of the record maintained in the office of the District Transport Officer. The record further reveals that the aforesaid vehicle was without number plate, without driving license and the owner was not wearing the helmet and as such RC was seized in accordance with the procedure prescribed under the Motor Vehicle Act. The petitioner had voluntarily deposited a fine of Rs. 500/- in the office of District Transport Officer for compounding the violation of the rules made under the Motor Vehicles Act. The perusal of testimony of CW-4 indicates that the Registration Certificate (RC) of the vehicle owned by the petitioner was impounded and the entry is duly recorded in the Entry Register Ex. C-13. There is nothing on record to remotely suggest that the private respondent was guilty of any illwill or wrong intention towards the petitioner. Intercepting the person for traffic violation under the Motor Vehicle Act in discharge of official duty does not in any manner breach the threshold of offence under Sections 217 and 218 of Indian Penal Code. Moreover, the sanction as provided under Section 197 of Cr.P.C. was necessary in the facts and circumstances of the case. No other point

was raised. I do not find any merit in the present petition and no perversity is found in the order passed by learned Additional Sessions Judge, Karnal and the same is upheld. The present petition is dismissed.

01.12.2023
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No