

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-21822-2019 (O&M)
Reserved on : 19th July, 2023
Pronounced on: 27th July, 2023

Balwan Singh

...Petitioner

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Rishipal, Advocate for the petitioner.
Mr. Chetan Sharma, Deputy Advocate General, Haryana.
Mr. Pradeep Sharma, Advocate for the complainant.

AVNEESH JHINGAN, J.:

1. This petition under Section 482 Cr.P.C. is filed seeking quashing of Kalandra dated 3rd July, 2018 under Section 182 of Indian Penal Code, 1860, registered at Police Station Sadar Thanesar, District Kurukshetra.

2. The relevant facts are that on 1st May, 2018 while petitioner was returning to Kurukshetra in a vehicle bearing registration No. HR075-5780, a car with black window panes overtook his vehicle on over bridge at G.T. Road near Umri Chowk. There was a loud noise and left side window pane of the vehicle of petitioner was broken. The petitioner made a call on police helpline and thereafter filed a complaint on 1st May, 2018. As per the complainant, there was a litigation pending between him and Rajesh son of Isham Singh (impleaded as respondent vide separate order of even date). The petitioner suspected that Rajesh (hereinafter referred as applicant) may be involved in the incident. He

3. As per the Forensic Science Laboratory report, the front left side window glass of vehicle was broken and pieces were found strewn in the car. There was no hit mark/blast material inside the car, no evidence of firing was observed. Finding the allegations to be false, the complaint was filed.

4. On 14th May, 2018, Rajesh made a complaint for initiating proceedings against the petitioner under Section 182 IPC. It was stated that petitioner falsely implicated him and on the date of alleged incident he was at his shop and the CCTV footage of the shop was produced. On the basis of the complaint of Rajesh Kumar, Kalandra under Section 182 IPC was issued. Hence, the present petition.

5. Learned counsel for the petitioner submits that initiation of proceedings under Section 182 IPC was bad in law. The contention is that no false complaint was made, the petitioner had only suspected that applicant might be involved in the incident.

6. Learned counsel for the State opposes the prayer and defends the impugned Kalandra.

7. Learned counsel for the applicant contended that the petitioner was harassing the applicant by trying to implicate him in false cases.

8. Heard learned counsel for the parties and perused the pleadings.

9. The petitioner on 1st May, 2018 at 4:15 PM made a call to the police helpline stating that the applicant had attacked him, fired a gunshot at his car and the glass of vehicle was broken. Thereafter, he came to the police station and gave a complaint suspecting that due to

the incident.

10. It is an undisputed fact that the glass of the vehicle of the petitioner was broken *albeit* in the inquiry no evidence of firing was found.

11. It is forthcoming that the impugned kalandra was issued relying upon the contents of the telephonic conversation on a helpline. It cannot be lost sight of that a phone call was made by the petitioner immediately when his vehicle met with an accident. On reaching the police station, he had given a complaint in which there was neither a mention of the firing nor specific allegations against Rajesh Kumar. Petitioner had only conveyed his suspicion.

12. Section 182 IPC is reproduced below:-

“[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 inquiry 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.”

13. The basic ingredient for proceeding under Section 182 IPC is that an information knowing or believing it to be false is given to the public servant with the intention that he uses his lawful power for enquiry or annoyance of another person.

14. As per the contents of the complaint, it cannot be concluded that the information given by the petitioner was believed by him or known to him to be false. He had only suspected that the attack on the vehicle might be by Rajesh Kumar.

15. There cannot be quarrel on proposition that the proceedings under Section 182 IPC are not to be initiated in each and every case. Before concluding, it would be appropriate to note that for initiating proceedings under Section 182 IPC, the recourse to the procedure prescribed under Section 195 Cr.P.C. is to be taken. In the present case, Kalandra under Section 182 IPC was issued on the basis of private complaint and not on a complaint by public servant.

16. The ***Supreme Court in Daulat Ram Vs. State of Punjab, 1962 AIR (SC) 1206:-***

“The only question in this case is whether a complaint in writing as required by Section 195 had been presented by the public servant concerned. The public servant who was moved by the appellant was undoubtedly the Tehsildar. Whether the appellant wanted the Tehsildar to take action or not, the fact remains that he moved the Tehsildar on what is stated to be a false averment of facts. He had charged Hans Raj and Kans Raj with offences under the Penal Code and he had moved his superior officer for action even though he might have stated in the letter that it was only for his information. We are prepared to assume that he expected that some action would be taken. In fact his second letter that he had compromised the matter and the proceeding might be dropped clearly shows that it anticipated some action on the part of his superior officer. The question is therefore whether under the provisions of Section 195, it was not incumbent on the Tehsildar to present a complaint in writing against the

appellant and not leave the court to be moved by the police by putting in a charge-sheet. The words of section 195 the Criminal Procedure Code are explicit. The section read as follows:

"(1) No Court shall take cognizance-(a) of any offence punishable under Sections 172 to 188 of the Indian Penal Code.

except on the complaint in writing of the public servant concerned, or of some other public servant to whom he is subordinate;.....

The words of the section, namely, that the complaint has to be in writing by the public servant concerned and that no court shall take cognizance except on such a complaint clearly show that in every instance the court must be moved by the appropriate public servant."

(emphasis)

17. Having conspectus of facts and in view of the law cited above, the impugned kalandra and consequential proceedings are quashed.

18. The petition is allowed.

19. Since the main case has been decided, pending application, if any is rendered infructuous.

**[AVNEESH JHINGAN]
JUDGE**

27th July, 2023
Parveen Sharma

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No