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

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Date of decision: 25th November, 2024

Pavittar Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms. Meenu, Advocate for the petitioner.

Mr. A.S. Samra, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

The instant petition has been filed under Section 482 of the Code of Criminal Procedure (for short 'Code') seeking calendra/report No. 10 dated 27.10.2011 registered under Section 182 of IPC at Police Station Fatehgarh, Panjtoor, order dated 22.03.2021 passed by the learned Additional Chief Judicial Magistrate, Moga in the abovesaid calendra and all the proceedings having arisen therefrom.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the petitioner lodged an FIR bearing No. 20 dated 30.06.2011 registered under Sections 307, 353, 186, 332, 323, 324, 506, 426 read with Section 34 and 120-B of IPC at Police Station Fatehgarh, Panjtoor alleging therein that he was a government teacher posted at Fateh Ulla Shah Wale and he was assigned duty as Booth Level Officer by Voters



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Registration Officer on 16.06.2011. To perform his duty, he had gone to the house of Mahinder Singh resident of village Panjtoor to make inquiries qua preparation of new votes and for making correction in the voters list. However, the said Mahinder Singh while proclaiming as to the authority of the petitioner, made an exhortation on hearing which Jaswant Singh and Ranjit Pal reached there and opened an assault upon the petitioner due to which he sustained injuries. He raised alarm and was rescued by one Avtar Singh. He prayed for taking action against the culprits. Investigation proceedings were initiated. An inquiry was also conducted by an officer of rank of DSP Dharamkot, who made recommendation for cancellation of the FIR.

3. As further submitted, the cancellation report was presented before the Court of Competent Jurisdiction. The petitioner was not satisfied with the report and filed a protest petition and then a private complaint. He produced preliminary evidence, on the basis of which, process was issued against the persons named as accused in the complaint for commission of offences punishable under Sections 332, 333, 353 and 186 of IPC. The case was committed to the Court of Sessions. Charges under the aforementioned sections were framed. After conducting trial, the accused named therein were acquitted of the charges as framed against them by the trial Court while its judgment dated 26.04.2017. Appeal filed against the said judgment of acquittal was dismissed by this Court vide order dated 18.10.2019.

4. It is further submitted by the petitioner that on 16.02.2021, Ranjit Pal, one of accused of the aforementioned FIR moved an application

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to Senior Superintendent of Police, Moga to file calendra under Section 182 of IPC. On 22.03.2021, an application was moved by SHO, PS Fategarh Panjtoor along with certified copy of calendra dated 27.10.2011 before the Court of Additional Chief Judicial Magistrate, Moga for presentation of calendra. The concerned Court, straightaway issued notice against the petitioner in the said calendra. Feeling aggrieved, the present petition has been filed by the petitioner thereby challenging the calendra and the order dated 22.03.2021.

5. It is argued by learned counsel for the petitioner that the learned Magistrate committed a mistake in taking cognizance of the offence under Section 182 of IPC since the same had been become barred by law of limitation as the calendra so submitted was dated 27.10.2011 but cognizance thereon had been taken on 22.03.2021 i.e. after expiry of a period of 9½ years. It is further argued that since, the accused named in the FIR No. 20 had been summoned by the competent Court in the protest petition/private complaint, were charge-sheeted and faced full fledged trial, therefore, the petitioner could not be booked for giving false information to the police and no proceedings under Section 182 of IPC could be initiated against him as such proceedings were to be initiated only during the investigation of the case.

6. It is further argued that the learned Magistrate while passing the impugned order dated 22.03.2021 did not apply his judicious mind and straightaway issued notice without considering the fact that the cognizance of the offence could be taken or not? It is, therefore, argued that the calendra

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in question as well as the order dated 22.03.2021 and the proceedings initiated subsequent thereto are liable to be quashed and the petition deserves to be allowed.

7. Respondent No.1-State has filed reply, submitting therein that after completion of investigation in FIR No. 20, cancellation report was prepared and a calendra under Section 182 of IPC was also prepared on 27.10.2011 vide DDR No. 10. The said calendra was presented on 22.03.2021 since after filing a cancellation report, protest petition and then complaint had been filed and application for leave to appeal against the judgment dated 26.04.2017 had also been filed before this Court which had been dismissed on 18.10.2019. It is argued by learned State counsel that no illegality or irregularity in passing of impugned order dated 22.03.2021 or filing of the calendra under Section 182 of IPC. Therefore, it is urged that the petition is devoid of any merit and the same is liable to be dismissed.

8. Ranjit Pal Singh, who was named as one of the accused in FIR No. 20 appeared and filed reply to the effect that the calendra under Section 182 of IPC was prepared vide DDR No. 10 dated 27.10.2011 against the petitioner, when it was found during investigation that the allegations levelled in the FIR No. 20 were false. Cancellation report was presented on 10.06.2012. Since the petitioner had filed a protest petition, therefore, the said calendra was attached with the file of protest petition/complaint by the Court and it was on dismissal of the complaint as filed by the petitioner and acquittal of the persons named as accused therein, that the proceedings on the calendra were initiated and the same were within the period of limitation



while controverting the pleas taken in the petition, dismissal of the same has been prayed for.

9. At the outset, it will be profitable to refer to the provisions of Section 182 of IPC, which are relevant for the purpose. The ingredients of this offence are as under:

- (i) The giving of false information,
- (ii) to a public servant,
- (iii) which the informant knew or believed to be false and
- (iv) which he gave in order to influence the public servant to behave in a way in which he ought not to behave if the true state of facts were known to him.

10. Offence Under Section 182 of IPC is punishable with imprisonment for a term which may extend to six months or with fine which may extend to Rs.1,000/- or with both. Now so far as the limitation aspect is concerned, Section 468 of the Code mandates that no Court shall take cognizance of offence beyond the period of limitation of one year if the offence is punishable with imprisonment for a term not exceeding one year. The period of limitation for filing complaint/lodging of FIR for commission of offence under Section 182 of IPC starts from the date when the fact that the complaint was false, comes within the knowledge of the police official concerned.

11. As per the version of the respondents, calendra under Section 182 of IPC was registered/entered vide DDR No. 10 dated 27.10.2011 against the present petitioner. As per the stand taken by learned Additional Advocate General, the same had been presented in the Court but no action

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could be initiated against on the same, as in the meanwhile, petitioner had filed a protest petition and then private complaint and then process was issued on that complaint. However, on a perusal of record, it is revealed that there is no material to show that the calendra under Section 182 of IPC was presented before the Court of Competent Jurisdiction before filing of the protest petition. Rather, on a perusal of Annexure P-7 which is copy of application dated 22.03.2021 submitted by SHO, Police Station Fatehgarh Panjtoor before the court of learned Additional Chief Judicial Magistrate, Moga for presentation of calendra, it is revealed that the original calendra entered vide DDR No. 10 dated 27.10.2011 was brought by Inspector Gurjant Singh in the Court in the private complaint filed by the petitioner and in his statement as recorded before the Court on 02.02.2016, photocopy of the said calendra was tendered as Ex. D-2, in defence evidence of the accused named there and at that time, the original calendra was attached with the judicial file and no further action was taken. The police has submitted certified copy of calendra on 22.03.2021 after the accused named in the FIR No. 20 faced trial in the private complaint and even after about 1½ from the date of passing or order dated 18.10.2019 whereby application moved by the petition for grant of leave to appeal against judgment dated 26.04.2017, was dismissed. It is well settled proposition of law that a complainant can not be booked for offence of giving false information to the police, punishable under Section 182 of IPC when the accused named in his complaint had faced full fledged trial. Prosecution agency can initiate proceedings against such person for offence under Section 182 of IPC only



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during investigation of the case on finding that information supplied by him was false. Reliance in this regard can be placed upon observations made by this Court in ***Balraj Singh Vs. State of Punjab 2006(4) RCR (Criminal) 488.***

12. So far as argument raised by learned counsel for the petitioner to the effect that Court was not competent to take cognizance on the calendra in view of bar created under Section 468 of the Code is concerned, it may be stated that according to this provision, no Court is competent to take cognizance of an offence after expiry of period of one year, if the offence is punishable with imprisonment for a term not exceeding one year and the offence under Section 182 of IPC is punishable for imprisonment up to one year only. However, it is also to be noted that the period of limitation for filing complaint/lodging FIR for commission of offence under Section 182 of IPC started from the date when the fact that the complaint was false came within the knowledge of the concerned police official. In this case, the calendra had been prepared on 27.10.2011 by entering DDR No. 10 after preparation of cancellation report. However, this calendra had been presented before the Court for taking action only on 22.03.2021. Even while presuming that the concerned Court could not take cognizance of offence under Section 182 of IPC during the pendency of the private complaint, however, then the judgment of acquittal had been passed in that complaint on 26.10.2017 and even application of petitioner for grant of leave to appeal was decided on 19.10.2019. Taking that date as the relevant date since when cognizance could be taken in the matter, still the cognizance on the calendra



which has been presented only on 22.03.2021 had become barred by law of limitation and as such could certainly not be taken by the learned trial Court.

13. Apart from the above, a perusal of the impugned order dated 22.03.2021 reveals that on presentation of the calendra, the learned trial Court straight way proceeded to issue notice against the present petitioner without passing any specific order reflecting due application of mind and due to that reason also the proceedings on the calendra cannot be stated to be sustainable. Reliance in this regard can be placed upon '*Krishan Murari and others vs. Mohinder Pal, 1983 RCR (Criminal) 21*' wherein it was observed so. In view of the discussion as made above, this Court is inclined to hold that the calendra filed under Section 182 of IPC and the order dated 22.03.2021 as well as the subsequent proceedings having emanated therefrom are not sustainable in the eyes of law and amount to abuse of process of law. Accordingly, the present petition is allowed and the impugned order calendra and order dated 22.03.2021 alongwith subsequent proceedings having arisen therefrom are quashed.

[MANISHA BATRA]
JUDGE

25th November, 2024
Parveen Sharma

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