



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-34828-2018

Date of decision: 03.10.2024

Jasbir Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Ms. Harveen Kaur, Advocate for the petitioner.

Mr. Inderjeet Singh Ladher, DAG, Punjab.

Mr. C.S. Rana, Advocate for respondent No.3

KARAMJIT SINGH, J. (ORAL)

1. The present petition under Section 482 Cr.P.C. has been filed by the petitioner seeking quashing of complaint/Kalandra No.8-CHA/68/2017 (Annexure P-1), registered at Police Station NRI, Ludhiana City and all the subsequent proceedings arising therefrom including order dated 11.07.2017 (Annexure P-2) passed by the Court of Judicial Magistrate Ist Class, Ludhiana and order dated 11.04.2018 (Annexure P-3) passed by the Court of Sessions Judge, Ludhiana.

2. The counsel for the petitioner while assailing the complaint/Kalandra Annexure P-1 and all the consequential proceedings arising therefrom submits that in the instant case, the petitioner gave two complaints i.e. (i) application No.1 dated 02.07.2014 UID 20143433 addressed to Commissioner, NRI wing, Punjab Phase-VII, SAS Nagar (Mohali) and (ii) another application dated 08.12.2014 addressed to Commissioner NRI wing, Punjab, SAS Nagar (Mohali). As per prosecution, the allegations made by the petitioner in both the said complaints were found to be false and resultantly, both the complaints were filed. Thereafter, respondent No.3 Manjit Singh gave an application to the police to take legal



action against the petitioner on the ground that two complaints filed by her were found to be false. That consequently, SHO of concerned Police Station NRI Ludhiana City, filed Kalandra Annexure P-1 against the present petitioner. It is further submitted that from the perusal of Kalandra Annexure P-1, the offence if any, is made out under Section 182 of IPC. It is further submitted that to prosecute a person under Section 182 IPC, the proceedings are to be initiated by the public servant concerned to whom information was given or the authority/officer superior to him, by filing a complaint in writing. In the present case, the concerned public servant is Commissioner, NRI wing, Punjab to whom the complaints were presented by the petitioner. The Kalandra Annexure P-1 being filed by SHO of the police station concerned, who was junior to the aforesaid public servant, is not sustainable and deserves to be set aside. It is further argued that apparently, it appears that Kalandra Annexure P-1 was filed on 13.02.2017 under Section 66 of Punjab Police Act which provides for maximum sentence of 6 months or a fine not exceeding Rs.10,000/- or both. It is further submitted that Kalandra Annexure P-1 was filed after the expiry of period of limitation as provided in Section 468 read with Section 469 Cr.P.C.

3. The present petition is resisted by the State counsel and counsel for respondent No.3 and both of them have submitted that the complaints given by the petitioner were found to be false and accordingly, proceedings were initiated against the petitioner by presenting Kalandra Annexure P-1 under Section 66 of Punjab Police Act and there is no illegality in the said proceedings. It is further submitted that the prosecution against the petitioner was initiated within the statutory period of limitation. It is further submitted that the present petition deserves to be dismissed being devoid of merits.

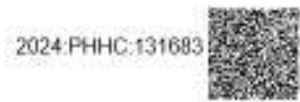
4. I have considered the submissions made by counsel for the parties.

5. From the perusal of Kalandra Annexure P-1 coupled with Annexure P-4, it is evident that the impugned Kalandra under Section 66 of Punjab Police Act was presented in the Court concerned on 13.02.2017.



After going through the contents of Kalandra Annexure P-1, it appears that the first application dated 02.07.2014 submitted by the petitioner was consigned on 10.09.2014 as the allegations made in the said complaint were found to be false. The another application dated 08.12.2014 was also consigned on 23.02.2015 as the allegations made in the said application were also found to be false. The punishment provided under Section 66 of Punjab Police Act is extendable up to six months. As per provisions of Sections 468 and 469 Cr.P.C, period of limitation provided for filing such Kalandra is one year from the date of the offence. Admittedly, in the present case, the alleged offence was committed on or before 23.02.2015 when the second application given by the petitioner was ordered to be consigned and thus limitation period of one year for taking cognizance started from 23.02.2015. The Kalandra Annexure P-1 which was filed on 13.02.2017 was filed much after the expiry of period of limitation of one year. No application was filed by the prosecution seeking condonation of delay in filing of the Kalandra Annexure P-1.

6. It is evident that complaint with regard to offence punishable under Section 182 IPC, as per provision contained under Section 195 Cr.P.C has to be lodged either by the public servant to whom such complaint was presented or an officer superior to him. Undoubtedly, in the present case, the complaints were given by the petitioner to Commissioner, NRI wing, Punjab and on inquiry, the said complaints were found to be false. Consequently, SHO Police Station NRI, Ludhiana City, presented Kalandra Annexure P-1 against the present petitioner in the Court concerned. It is evident that while initiating the action against the petitioner, the prosecution did not take recourse to the procedure prescribed under Section 195 Cr.P.C. In order to prosecute an accused for an offence punishable under Section 182 IPC, it is mandatory to follow the procedure prescribed under Section 195 Cr.P.C else such action is rendered void ab initio. In this context, reference be made to decision of Hon'ble Supreme Court in ***Saloni Arora Vs. State of NCT of Delhi 2017 (1) RCR (Criminal) 584***. In the light of the law laid down by Hon'ble Supreme Court in ***Saloni Arora's case*** (supra), the Kalandra Annexure P-1 presented by SHO of the concerned police



station is not maintainable as per the mandate of Section 195 Cr.P.C, as the complaints lodged by the petitioner were addressed to Commissioner, NRI Wing, Punjab and thus, Kalandra Annexure P-1 presented by SHO Police Station NRI, Ludhiana City, suffers from inherent procedural defect and was not presented in consonance with the provisions of Section 195 Cr.P.C and thus, deserves to be quashed.

7. In light of the above, the present petition is allowed and Kalandra Annexure P-1 and all the subsequent proceedings thereto including orders Annexure P-2 and P-3, are hereby ordered to be quashed.

8. Petition stands allowed.

03.10.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:-	Yes/No