





Singh @ Rinku son of Harjit Singh against petitioner no.1, wherein it was submitted by the complainant that in the year 2017, on 03.06.2017, he received an anonymous letter demanding ransom of lacs of rupees at Haqiqat Rai Samadh at 04:00 PM, failing which, a threat was given to kill one child of their joint family. They informed the concerned Senior Superintendent of Police about the same. However, nobody reached at the spot to receive ransom. A week later, on 10.06.2017, two uncles of the complainant namely Dharampal Singh and Tejinder Singh along with Harpal Singh, son of Tejinder Singh gave false complaint against the complainant regarding beatings, which was allegedly given at the instance of petitioner no.1 Harpreet Singh. In the meantime, when the complaint in question was inquired into, it was found that the aforesaid Dharampal Singh and Harpal Singh were involved in sending the ransom letter to the complainant. So, FIR No.121 dated 11.08.2017, under Sections 511, 506, 384, 34 IPC was registered against them. On the other hand, the complaint made by them regarding beatings by the complainant party was also found to be false. On the same day, as a counter blast to the aforesaid FIR, Dharampal Singh, Harpreet Singh and Tejinder Singh gave a complaint bearing No.235-EO Wing to Senior Superintendent of Police, which was also found to be false during inquiry. In the meantime, it is alleged that Harpreet Singh and his party gave an application in the bank of the complainant to close their accounts. Later, Harpreet Singh also moved a complaint to Director General of Police, Punjab which was marked to Inspector General of Police, Amritsar for inquiry. However, said complaint was also found to be false.

**CRM-M-22140-2022****-3-**

Once again, Harpreet Singh gave complaint bearing No.386-SSP dated 09.04.2021 to Senior Superintendent of Police, Batala and this was the same complaint, which was given to Director General of Police three years ago. Again, the same was found to be false. So, the complainant urged that he was being harassed mentally and monetarily for the last five years at the hands of aforesaid Harpreet Singh and others.

3. Both the parties were called in order to inquire into the complaints. Their statements were also recorded. After going through the matter, it was observed that four complaints i.e. No.2183 dated 10.06.2017, No.235-EOW dated 11.08.2017, No.4233-CCI dated 27.12.2017 and No.386-MPC dated 09.04.2021 were filed by the petitioners. However, all those complaints were found to be false after inquiry and for that reason, Kalandra under Section 182 IPC was prepared and after obtaining the opinion of ADA (Legal), was sent to the Court concerned for hearing.

4. Learned counsel for the petitioners has argued that it is well settled law that the Court can take cognizance of the offence under Section 182 IPC only on the written complaint of that public servant, before whom the complaint was moved, or by his superior officer, and not by anyone else. In the instant case, three complaints (out of total four complaints) were moved before Senior Superintendent of Police, Batala. If the same were found to be false, then Kalandra could be filed only by said Senior Superintendent of Police and not any officer subordinate to him. One complaint was filed before the Director Bureau of Investigation, Punjab, Chandigarh. In this case, if Kalandra was to be presented, then that could be



done only by the same Authority. Even the Director could not delegate his powers to SHO for filing Kalandra. In these circumstances, SHO of Police Station City Batala, who has filed the Kalandra, was not competent to file the same. So, the said Kalandra is not sustainable in the eyes of law and is liable to be quashed. To support his contentions, learned counsel for the petitioners has placed reliance upon **P.D. Lakhani and another vs. State of Punjab and another** reported as **2008(2) RCR (Criminal) 838**, **Sharda Devi vs. State of Haryana** reported as **2018(2) RCR (Criminal) 54**, **Shobha Rani vs. State of Haryana** reported as **2010(24) RCR (Criminal) 908**, **Balwinder Kaur vs. State of Punjab and others** reported as **2012(3) SCT 228**, **Babita vs. State of Punjab and another** reported as **2008(4) RCR (Criminal) 516** and **Malkiat Singh vs. State of Haryana** reported as **1999(2) RCR (Criminal) 10**.

5. Learned counsel for the State has argued that petitioners have moved false complaints levelling baseless allegations. Inquiry was conducted by the officers of the Police Department and the allegations levelled by the petitioners were found to be false. The petitioners are in the habit of filing false complaints. Petitioners can prove their innocence before the learned trial Court. So, prayer for dismissal of the petition has been made.

6. I have heard the submissions of learned counsel for the petitioner and learned State counsel.

7. There is no denial of the fact that complaints No.2183 dated 10.06.2017, No.235-EOW dated 11.08.2017, No.4233-CCI dated



27.12.2017 and No.386-MPC dated 09.04.2021 were filed by the petitioners before Senior Superintendent of Police, Batala and before the Director Bureau of Investigation, Punjab, Chandigarh. None of the complaint was filed before SHO of Police Station, City Batala. However, Kalandra in question was filed by SHO of Police Station, City Batala.

8. The only question that arises is whether Kalandra could be filed by the person, to whom the complaint was sent or by his junior officer including SHO of concerned Police Station. As per provisions of Section 195 Cr.P.C., the Kalandra under Section 182 IPC can be filed only by the public servant concerned, which means, to whom the complaint was sent or by some other public servant, to whom he is administratively subordinate. In the case of **P.D. Lakhani** (*supra*), the complaint was sent to Senior Superintendent of Police, who sent the complaint to SHO. The SHO found the complaint to be false and filed the Kalandra/complaint under Section 182 IPC before the Magistrate against the complainant. It is held by Hon'ble Apex Court that no complaint could be lodged by SHO under Section 195 of Cr.P.C. Complaint could be filed either by the Senior Superintendent of Police or his superior officer and not by his junior officer. In all the authorities cited above by learned counsel for the petitioners, the proceedings were quashed on the ground that complaint was sent to higher authorities but Kalandra was filed by junior officers.

9. In the case in hand, the complaints were moved before the Senior Superintendent of Police, Batala and before the Director Bureau of Investigation, Punjab, Chandigarh but Kalandra was filed by SHO, who was

junior to him. Since the said Kalandra was itself not maintainable. In these peculiar circumstances, continuation of proceedings on such Kalandra are simply an abuse of process of law.

10. As a sequel of the above discussion, the Kalandra in question (Annexure P-14) and all the other proceedings emanating therefrom are hereby quashed. Petition is accordingly allowed.

11. Pending applications, if any, shall stand disposed of along with this judgment.

September 18, 2024  
monika

(GURBIR SINGH)  
JUDGE

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|-----------------------------|---------|
| Whether speaking/reasoned ? | Yes/No. |
| Whether reportable ?        | Yes/No. |