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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-21879-2023 (O&M)
Date of decision: 14.11.2024

Ishwar Singh ...Petitioner

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Wazir Singh, Advocate
for the petitioner.

Mr. Arjun Lakhanpal, Addl. A. G., Haryana.

Mr. M. S. Kathuria, Advocate
for respondents No. 4 and 5.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed under Section 482 of the Code of Criminal Procedure (*for short 'the Code'*) seeking quashing of Calendra under Section 182 of the Indian Penal Code (*for short 'IPC'*), registered vide GD/DDR No. 16 dated 29.09.2022 (Annexures P-4 & P-5), order dated 06.01.2023 (Annexure P-6), thereby issuing notice to the petitioner and all the subsequent proceedings having emanated therefrom.
2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the FIR bearing No. 387 dated 11.05.2018, had been registered on the complaint of the petitioner on 11.05.2018, wherein he had alleged that Puran Singh and his son Surender Singh, residents of village Beed Majra, had extracted an amount of Rs. 15 Lakhs from him on the pretext of sending Ajay Kumar, nephew of the petitioner abroad; but neither did they send him abroad nor refunded his money. A panchayat meeting was

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convened, wherein and also before the police, the above named Surender Singh and Puran Singh had assured to give money of the petitioner back but failed to do so. The petitioner, therefore, prayed for taking action in the matter. After registration of FIR, investigation proceedings were initiated. A cancellation report was prepared that the allegations levelled in the FIR were found to be false and thereafter, Calendra under Section 182 of IPC was prepared in accordance with the recommendation so made. A complaint under Section 182 of IPC was filed by the SHO, Police Station Civil Lines, Karnal against the petitioner and notice was issued to him. Feeling aggrieved from filing of the complaint/Calendra and passing of the impugned order dated 06.01.2023, the present petition has been filed.

3. It is argued by learned counsel for the petitioner that the aforesaid complaint/Calendra under Section 182 of IPC has been filed against the petitioner on 29.09.2022 i.e much after expiry of prescribed period of limitation of one year. It is further argued that since the cancellation report had neither been filed nor it was accepted by the competent Court of law, the filing of complaint under Section 182 of IPC against the petitioner was nothing but an abuse of process of law. It is, therefore, argued that the impugned complaint/Calendra as well as the impugned order are liable to be quashed. To buttress his argument, learned counsel for the petitioner has relied upon the authorities cited as ***Shikha Kondal vs. State of Punjab : 2020 (4) RCR (Criminal) 594, Harbhajan Singh Bajwa vs. Senior Superintendent of Police, Patiala and another : 2000 (3) RCR (Criminal) 94, Jagraj Singh vs. State of Punjab : 1993 (2) RCR (Criminal) 633, Shiv Kumar Grover and another vs. State of Punjab : 2013 (1) RCR (Criminal) 57, Babita vs. State***

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of Punjab : (P&H) 2008 (4) RCR (Criminal) 516 and Bhatwat Singh vs. Commissioner of Police and another : 1985 (2) SCC 537.

4. Respondent-State has filed reply by way of affidavit submitting therein that on conducting thorough investigation in the aforesaid FIR No. 387 as got lodged by the present petitioner, it was found that the allegations levelled by the petitioner were false and he had not been able to produce any corroborative evidence to substantiate the allegations. On finding the allegations so levelled to be untrue, a cancellation report was prepared on 12.08.2018. It is argued by learned State counsel, assisted by learned counsel for respondents No. 4 and 5, that the information given by the petitioner to the police had been found to be false and since such information was shown to have been given with an intent to cause the police officials to use their lawful power to the injury of the persons named as accused therein, therefore, the petitioner had committed offence under Section 182 of IPC and, therefore, it is urged that the aforesaid Calendra under Section 182 of IPC had rightly been prepared and filed against the petitioner. It is further submitted that the filing of the Calendra as on 29.09.2022 was not barred by limitation as it could be filed any time before finalization of the proceedings of cancellation report. Therefore, it is urged that there is no merit in the present petition and the same is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have gone through the material placed on record.

6. 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:

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- (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 evidence can also be committed outside C servant to behave in a way in which he ought not to behave if the true state of facts were known to him.

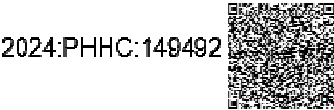
7. Offence under Section 182 of IPC is punishable with imprisonment for a term which may extend to six months or with fine which may extend to Rs.1,000/- or with both. Now so far as the limitation aspect is concerned, Section 468 of the Code mandates that no Court shall take cognizance of offence beyond 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 as observed in *Habhajan Singh Bajwa's* case (supra) and *Jagraj Singh's* case (supra). In this case, as per version of the respondents, cancellation report had been prepared on 12.08.2018 and the fact that the complaint was false came within the knowledge of the police official concerned as on that date. However, it is noteworthy to say that that the cancellation report had not been presented before the Court concerned till the date of filing of this petition.

8. During the course of argument, it has been very fairly conceded by learned State counsel that cancellation report has been filed before the Court of Magistrate concerned only on 01.07.2024 and now notice has been issued to the present petitioner. The well established proposition of law is that

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on filing of a cancellation report, the Judicial Magistrate concerned can accept the same and drop the proceedings; or may order further investigation to be made by the police; or otherwise he has option to take cognizance on the basis of material presented before him and issue process against the accused on filing protest petition, if a view is taken by the Magistrate that there are sufficient grounds for proceeding further. However, these options are yet to be exercised by the Magistrate concerned since the cancellation report has been filed very recently and even the presence of the petitioner is to be secured by the Magistrate. A very valid question which automatically arises for consideration is if the Magistrate chooses to order for further investigation or to take cognizance of the matter on the basis of the material produced before him and to issue process against the accused of FIR No. 387, then what would be the fate of proceedings under Section 182 of IPC? In the considered opinion of this Court, in that eventuality, the proceedings under Section 182 of IPC would be treated to be without jurisdiction and hence liable to be quashed. In support of this opinion, this Court relies upon **Babita's** case (supra), wherein a cancellation report was prepared and presented in the Court of Illaqua Magistrate. Objection was raised by the petitioner to the cancellation report and the matter was remanded back for further cancellation. It was observed by this Court that keeping in view the fact that the final opinion by the Court with regard to falsity of the allegations levelled in the complaint made by the petitioner was yet to be given by the Court concerned, permitting the respondents to proceed with the proceedings under Section 182 of IPC would amount to pre-judging the complaint filed by the petitioner and would also amount to abuse of process of law. Accordingly, the proceedings



initiated against the petitioner under Section 182 of IPC were quashed. Reliance can also be placed upon *Shikha Kondal*'s case (supra), wherein similar observations were made. In view of the position of law as explained above, though it cannot be stated that the period of limitation for filing complaint under Section 182 of IPC had expired on the date when the Calendra was filed, however, nonetheless in view of the fact that the final opinion by the Court concerned with regard to falsity of the allegations levelled in the complaint is yet to be given, the proceedings under Section 182 of IPC cannot be stated to be sustainable.

9. As per the discussion made above and keeping in view the well settled proposition of law, it is held that aforesaid complaint/Calendra, filed under Section 182 of IPC, and the summoning order dated 06.01.2023, thereby summoning the petitioner as well as the subsequent proceedings having emanated therefrom are not sustainable in the eyes of law and the same amount to abuse of process of law. Accordingly, the present petition is allowed and the impugned Calendra and order dated 06.01.2023 along with subsequent proceeding having arisen therefrom are quashed.

14.11.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No