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

**CRM-31376-2024 in/and
CRM-M-28466-2024 (O&M)**

Reserved on :01.10.2024

Pronounced on: 15.10.2024

Damanpreet Singh

..... Petitioner

VERSUS

State of Punjab and others

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Amandeep Singh, Advocate,
for the applicant-petitioner.

Mr. G.S. Bhullar, AAG, Punjab.

KIRTI SINGH, J.

The jurisdiction of this Court has been invoked under Section 482 Cr.P.C. seeking quashing of the Kalandra under Section 182 IPC (Annexure P5) and complaint under Section 195 Cr.P.C. (Annexure P6) pending before the Court of learned Judicial Magistrate 1st Class, Ludhiana in case No.CHI-45463-2019 and all subsequent proceedings arising out of it.

2. Succinct factual narrative relevant for the disposal of the instant petition is that on 31.05.2018, the petitioner called the toll-free number of respondent No.2 (Inspector General of Police, Vigilance Bureau, Punjab) for filing a complaint against one Ravinder Kumar, the then ASI, posted at Police Post Basant Chowki, Police Station Sadar,

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Ludhiana for demanding a bribe of Rs.1,00,000/- from the petitioner upon which the Operator of the control room registered the complaint of the petitioner vide complaint No.100 dated 31.05.2018 under authority of respondent No.2 and marked the same for investigation through email to the office of Vigilance Bureau Unit, Ludhiana.

2.1 Thereafter, the petitioner approached respondents No.3 and 4 who instructed the petitioner to provide a recording of the demand for a bribe. The petitioner was unable to obtain any audio or video evidence to support the claim of bribery. Consequently, respondent No.4 (Deputy Superintendent of Police, Vigilance Bureau Unit, Ludhiana) recommended to respondent No.3 (Senior Superintendent of Police, Vigilance Bureau Unit, Ludhiana) that the petitioner was not interested in pursuing the matter. A recommendation to close the complaint was made by respondent No.4 to respondent No.3 vide letter dated 06.08.2018 (Annexure P2) .

2.2 After respondent No.3 forwarded the case to respondent No.2 who initially entertained the petitioner's complaint, a letter dated 29.03.2019 (Annexure P4) was issued to respondent No.3 by the Joint Director (Admn.) through the Chief Director, Vigilance Bureau, Punjab. In the letter, it is stated that the petitioner had failed to appear despite repeated calls and notices issued from the Vigilance Bureau Unit, Ludhiana to submit a recording of the alleged bribe demand. It further mentioned that the petitioner had filed a false complaint and

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recommended that the complaint be closed, the file be consigned to the record room and a case under Section 182 Cr.P.C. be filed against the petitioner for lodging a false complaint.

2.3 Thereafter, upon the recommendation of the Head Office, Vigilance Bureau, Punjab, a Kalandra under Section 182 IPC was filed by respondent No.5 against petitioner for filing a false complaint along with complaint/application under Section 195 Cr.P.C. by the Deputy Superintendent of Police, Vigilance Bureau Unit, Ludhiana against the petitioner.

Submissions made by the learned counsel for the petitioner

3. Learned counsel for the petitioner has made the following submissions:-

(i) That no proper inquiry has been conducted by the competent authority on the complaint of the petitioner and without a proper inquiry or one sided inquiry, the complaint of the petitioner could not be found to be a false complaint and the present kalandra was wrongly filed by the respondent No.5 which is liable to be quashed.

(ii) That the respondent No.5 who filed the present kalandra under Section 182 IPC was not competent to file the kalandra as per the provision of Section 195 Cr.P.C. as originally the complaint of the petitioner was entertained by the respondent No.2 and the complaint was to be filed by

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respondent No.2 or by whom the respondent No.2 is administratively subordinate, but in the present case the kalandra under Section 182 IPC is filed by respondent No.5 who is not at all competent to file the complaint as such the kalandra is liable to be quashed.

(iii) That the present kalandra under Section 182 IPC was filed beyond the period of limitation. The kalandra under Section 182 Cr.P.C. was to be filed within one year from the date of recommendation but the present kalandra was filed beyond limitation on 27.11.2019 as such the same is liable to be quashed.

Reliance has been placed upon the judgments passed by Coordinate Bench(s) of this Court in **Kulwinder Singh Vs. State of Punjab and another 2008(4) RCR (CrI.) 418, Babita Vs. State of Punjab and another 2008(4) RCR (CrI.) 516, Subhash Chander Vs. State of Haryana 2010 (3) AICLR 467, Inderjit Dhamija Vs. State of Haryana 2023 (3) CrI. 483 and Vineet Sood Vs. State of Punjab and another (CRM-M-13495-2015).**

Submissions made by the learned State counsel

4. *Per contra*, the learned State counsel has contended that despite various phone calls and summons issued to the petitioner, he did not present himself in the office of the Vigilance Bureau, Ludhiana

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Range. Since the petitioner could not produce any legal evidence regarding the demand for a bribe or any other, convincing and reliable proof in respect of his complaint, therefore, it was recommended to close the complaint of the petitioner being false and proceedings under Section 182 IPC were launched against the petitioner on the basis of Kalandra prepared by Inspector Vigilance Bureau Range Ludhiana based on complaint filed under Section 195 Cr.P.C. by DSP, Vigilance Bureau, Range Ludhiana. The said Kalandra is now pending before the Court of learned JMIC, Ludhiana.

5. Heard the rival submissions made by the learned counsel for the parties.

6. Before advertng to the arguments of learned counsel for the parties, it would be relevant to first refer to the relevant statutory provisions.

Section 182 of the IPC, which prescribes the punishment for giving of false information, with intent to cause public servant to use his lawful power to the injury of another person, reads as under:-

182. 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—

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(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 injury 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.

Sections 468, 469 and 473 of the Cr.P.C., which are relevant to the question of period of limitation for filing of complaint under Section 182 of the IPC, computation thereof and condonation of delay, read as under:-

468. Bar to taking cognizance after lapse of the period of limitation.—

(1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be—

(a) six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence

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which is punishable with the more severe punishment or, as the case may be, the most severe punishment.

469. Commencement of the period of limitation.—

(1) The period of limitation, in relation to an offence, shall commence,—

(a) on the date of the offence; or

(b) where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or

(c) where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier.

(2) In computing the said period, the day from which such period is to be computed shall be excluded.

473. Extension of period of limitation in certain cases.-

Notwithstanding anything contained in the foregoing provisions of this Chapter, any Court may take cognizance of an offence after the expiry of the period of limitation, if it is satisfied on the facts and in the circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interests of justice.”

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7. The offence of giving false information with intent to cause public servant to use their legal power to the injury of another person is punishable under Section 182 IPC with imprisonment for a term which may extend to six months or with fine which may extend to Rs.1,000/- or with both. Section 468 Cr.P.C. mandates that no Court shall take cognizance of an offence beyond the period of limitation of one year if the offence is punishable with imprisonment for a term not exceeding one year. In the present case, the petitioner had filed a complaint on 31.05.2018 and vide letter dated 06.08.2018, the respondent No.4 had recommended to close the complaint of the petitioner as the petitioner was not interested to pursue his complaint. As such, from the date of the recommendation by respondent No.4 (Deputy Superintendent of Police, Vigilance Bureau Unit, Ludhiana) the limitation for filing the kalandra commenced and it was to be filed within one year from the letter dated 06.08.2018 but in the present case, the kalandra was filed on 27.11.2019 i.e. after the lapse of the period of limitation i.e. one year.

8. A Coordinate Bench of this Court in CRM-M-7696-2007 decided on 31.03.2008 titled as **Kulwinder Singh Vs. State of Punjab and another** has also held as under:-

“4. Heard learned counsel for the parties and perused the paper book and the judgments referred to by them.

This Court in Sardari Lal's case (supra) while dealing with an identical issue opined as under:

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*"It has been held by the Punjab and Haryana High Court in **Jarnail Singh v. The State of Punjab and another, 1983(1) Recent Criminal Reports 540: 1983(1) Chandigarh Law Reporter 719**, that the complaint addressed to the Senior Superintendent of Police giving rise to the filing of a formal complaint under Section 182 of the Code could not be initiated by an officer subordinate to the rank of the Senior Superintendent of Police. In **Daulat Ram v. State of Punjab, AIR 1962 Supreme Court 1206**, the apex Court had held that the offence under Section 182 of the Code is complete when a person moved the public servant for action. Where a person reports to a Tehsildar to take action on averment of certain facts, believing that the Tehsildar would take some action upon it, and the facts alleged in the report are found to be false, it is incumbent, if the prosecution is to be launched, that the complaint in writing should be made, by the Tehsildar as the public servant concerned under Section 182, and not leave it to the police to put a charge sheet. The trial under Section 182 of the Code without the Tehsildar's compliant in writing is, therefore, without jurisdiction ab initio.*

In Baldev Singh's case (supra), this Court set aside the calendra presented under Section 182 Indian Penal Code on the ground that it had not been presented by a person competent to whom the complaint had been made. Para 6 of the judgment can be referred to for the purpose:-

"A bare reading of this provision (Section 195 Criminal Procedure Code) would show that the Court of competent jurisdiction has been authorised to take cognizance of an offence punishable under Sections 172 to

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188, (these include the offence under Section 182 under which the instant complaint had been filed against the petitioner by a respondent No. 2) only on the complaint in writing by the public servant whom he is administratively subordinate. Since the complaint, copy Annexure P-2 has been made to the Prime Minister and to the Inspector General of Police and the Senior Superintendent of Police, Amritsar, the complaint could be filed in the Court by the Prime Minister or by the Inspector General of Police or by the Senior Superintendent of Police. In case, however, the Inspector General of Police or the Senior Superintendent of Police wanted to avoid the filing of the complaint either through the Home Secretary/Minister, Home Affairs, or the Director General of Police etc. to whom the Inspector General of Police or the Senior Superintendent of Police could not be said to be subordinate. Surely, the complaint could not be filed by the Inspector of Police, respondent No. 2, who is subordinate to the Inspector General of Police and the Senior Superintendent of Police, as has been done in this case, in view of the clear mandate contained in Section 195 of the Criminal Procedure Code which has been reproduced above.

6. In D.S. Rawat's case (supra), similar view was expressed by this Court in following terms:

"A perusal of the above quoted provisions shows that a complaint under Section 182 of the Indian Penal Code can be initiated against the informant only by the officer to whom false information has been made and not (or ?) by an, authority to whom he is administratively subordinate. In the

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instant case, the petitioner had made an application to the Senior Superintendent of Police, Jalandhar for taking action against Karamjit Singh and others whereas the Kelendra has been filed by the Station House Officer, Police Station, Division No. 4, Jalandhar. There is nothing on the record to show as to whether the Senior Superintendent of Police or his administratively superior authority had authorised Station House Officer, Police Station, Division No. 4, Jalandhar to file the Kelendra against the petitioner in the Court except for the bald averment made in paragraph 9 of the reply."

7. This Court in *Criminal Misc. No. 60096-M of 2004 (Surjit Singh v. State of Punjab)*, decided on 06.02.2008 while considering earlier judgment of Hon'ble the Supreme Court in *Daulat Ram v. State of Punjab*, AIR 1962 Supreme Court 1206, opined as under :-

"Once the position of law on the issue whether calendra under Section 182 Indian Penal Code can be presented under the signatures of any authority who though subordinate to the person to whom the complaint was made but on the direction of the authority concerned is already settled and it has been opined that in case the prosecution is to be launched under Section 182 Indian Penal Code, the complaint in writing should be made by the public servant concerned and not his subordinate and mere direction by the competent authority to present calendra will not comply with the provisions of law. In the present case, the complaint has been filed by the petitioner to the Senior Superintendent of Police but calendar has been presented by the Assistant Sub Inspector, which cannot be held to be valid in terms of

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provisions of Section 195 (1)(iii) of the Code of Criminal Procedure.

9. In view of above discussion on the issue regarding the competence of the person to present the kalandra before the Court being clear, in the present case, the kalandra having been presented by respondent No.5 (Inspector Police, Vigilance Bureau, Punjab) is incompetent as the complaint was originally entertained by respondent No.2 i.e. Inspector General of Police, Vigilance Bureau, Punjab and as per the provisions of Section 195 Cr.P.C, the kalandra and the complaint was to be filed either by the Inspector General of Police, Vigilance Bureau or to whom he was administratively subordinate but in the present case, the kalandra under Section 182 IPC was filed by the Inspector Police, Vigilance Bureau Unit, Ludhiana who was not competent to file the complaint.

10. Accordingly, this Court is of the considered view that the kalandra was presented beyond the period of limitation and was not filed by the authority to whom the complaint had been made who was the competent authority to file the kalandra under Section 182 Cr.P.C and merely by filing the complaint by his subordinate even on instructions/directions of the competent authority does not empower to transgress the statutory provisions of law.

11. Accordingly, this petition is allowed and Kalandra under Section 182 IPC (Annexure P5) and complaint under Section 195 Cr.P.C.

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(Annexure P6) pending before the Court of learned Judicial Magistrate 1st Class, Ludhiana in case No.CHI-45463-2019 and all subsequent proceedings arising out of it, are quashed .

Pending miscellaneous application(s), if any, stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

15.10.2024
Ramandeep Singh

Whether speaking / reasoned

Whether Reportable

Yes

Yes