



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

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CRM-M-11334-2014 (O&M)
Decided on : 07.07.2025

Pardipt Chaudhary

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. KDS Hooda, Advocate
for the petitioner(s).

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

Mr. Sukhdeep Singh, Advocate
for respondent No.2.

SANJAY VASHISTH, J. (Oral)

1. Through instant petition, filed under Section 482 Cr.P.C. (528 of BNSS, 2023), petitioner – Pardipt Chaudhary, has prayed for quashing of the Kalandra under Section 182, 211 of IPC, dated 12.05.2013, and all the consequential proceedings arising therefrom, filed in the Court of learned Chief Judicial Magistrate, Karnal.

2. Petitioner had filed one complaint against one Renuka d/o Ranbir Singh on 18.01.2011, alleging therein that Renuka had visited the school, where minor son of the petitioner was studying and while visiting in the school, she tried to forcibly take the child along with her. However, on alarming by the child, and on the intervention of the teacher, it was not allowed to happen.

Apprehending some mischief at the hands of Renuka or her other family members, because of the ongoing serious disputes in the family



including the one under section 302 of IPC. The allegations levelled in the complaint were enquired into by the police, and therein ,it was considered to be a very trivial issue. The allegations were verified by SI Nand Kishore and thereupon, final report was prepared on 18.02.2011 by the then SHO, Civil Lines Karnal, i.e., Inspector Ramesh Kumar. In the final report it was concluded that Renuka was not found to have visited at junior wing of STC School, Sector 9, Karnal, and that Renuka had not come from the main gate of the primary wing of the School, rather, had come from the main gate of main branch of the School. It was also concluded in the final report that there were family disputes and cases are still going on between the complainant and the respondent party for the last two years. Ultimately, it was concluded that on the basis of some suspicion, complaint appears to have been submitted. As no cognizable offence was made out, Complaint No.72 dated 18.02.2011, was consigned and complainant (petitioner herein) was subjected to the legal action in the form of presentation of impugned Kalandra, under Section 182, 211 of IPC.

3. **SUBMISSIONS ADDRESSED BY PETITIONER'S COUNSEL: -**

- (i) While challenging the Kalandra, counsel for the petitioner submits that offence under section 182 IPC is maximum punishable for a period of SIX months. Since complaint No.72-P was moved by the petitioner on 18.01.2011, Kalandra under section 182 IPC can be registered only upto the period of one year thereafter, and therefore, registration of Kalandra, vide DDR No.22 on 12.05.2012, is hit by Section 468 of Cr.P.C.



Petitioner submits that main allegation is of moving of a false complaint and registering of Kalandra and same is definitely beyond limitation and it requires to be quashed on this ground.

- (ii) He further submits that complaint was addressed to Superintendent of Police, Karnal, but Kalandra has been registered by SHO Civil Lines Karnal. Therefore, Kalandra could either be prepared by the Superintendent of Police, Karnal, himself and then only the Court could be able to take cognizance of the same.

Referring to Section 195(1)(a) Cr.P.C., counsel for the petitioner argues that Court cannot take cognizance of any offence punishable under section 172 to 188 (both inclusive) of the Indian Penal Code (IPC), except on the complaint in writing of the public servant concerned, or of some other public servant, to whom he is administratively subordinate. Thus, SHO who prepared Kalandra, is not the officer to whom the original complaint dated 18.01.2011 was addressed by the petitioner, nor the addressee of complaint is Administratively subordinate to the Authority preparing Kalandra.

In other way round, it could be anyone administratively senior officer to the SP Karnal, who could have prepared Kalandra against the petitioner and not the SHO. Thus, Kalandra proceedings u/s 211 IPC are also not maintainable in law.

In support of his contention, counsel relies upon the following judgments of this Court: -



- (i) Malkiat Singh v. State of Haryana, 1999(2) RCR (Criminal) 10 : Law Finder Doc Id # 33120;
- (ii) Randhir v. State of Haryana and others, 2003(4) RCR (Criminal) 651 : Law Finder Doc Id # 64908.
- (iii) Lastly, it is argued that all the disputes between the petitioner and Renuka, who though is not party to the present petition, have already been resolved by compromising on the issues. Therefore, proceedings in Kalandra case is only academic in nature, without there being any object for achieving any meaningful purpose.

Thus, petitioner prays for quashing of Kalandra registered, under section 182/211 of IPC dated 11.02.2011, and all the consequential proceedings arising therefrom.

4. On the other hand, learned State counsel vehemently contends that a false complaint is there, however, he is unable to dispute the legal submission in regard to the period of limitation in registration of Kalandra under section 182 IPC. However, submits that for the allegations of making attempt to kidnap the child from the school, punishment is on higher side. Therefore, Kalandra being under section 211 IPC, petitioner would not be able to draw any benefit of saying that Kalandra is not maintainable, as per section 468 Cr.P.C.

5. I have heard the learned counsel for the parties and also gone through the relevant material available on record.

6. Section 468 of Cr.P.C. which was applicable at the relevant time, is reproduced here 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 which is punishable with the more severe punishment or, as the case may be, the most severe punishment.”

7. Under Section 182 IPC, offence is maximum punishable for a period of six months. Petitioner’s complaint against Renuka, is of 18.01.2011 and Kalandra proceeding is registered on 12.05.2013. Therefore, Kalandra proceeding is definitely much beyond the limitation period of one year, as provided u/s 468(2)(b) of Cr.P.C. (as applicable during relevant period). Accordingly, proceeding u/s 182 IPC could not be stated after a period of one year of the complaint. Therefore, in the present case, Kalandra u/s 182 IPC couldn’t exist and liable to be quashed, same being beyond limitation.

However, this proposition in law would not be applicable for registering Kalandra u/s 211 IPC because offence to make attempt for kidnapping is punishable u/s 363 r/w 511 IPC, with a sentence period of three years and six months, as offence u/s 363 IPC is punishable, maximum for a period of seven years.

8. Second limb of the argument of the petitioner’s counsel, seems to be justified because same is supported with the view already taken by this



Court in Malkiat Singh's case (supra), in paragraph Nos. 6, 7 & 8 of which says as under:-

*“6. It has been held by the Bombay High Court in **Krishna Tukaram Jadhav and another v. The Secretary to the Chief Minister, Bombay State, AIR 1955 Bombay 315**, that it is necessary that the complaint is filed by the public servant concerned. In the present case in hand, the complaint has not been filed by the Superintendent of Police but by the S.H.O., though Malkiat Singh had sent his complaint to the Superintendent of Police.*

*7. In **Davinder Singh Kapoor v. State of Punjab and Anr., 1991(2) C.L.R. 194**, a similar matter, under Section 182 I.P.C., came up for consideration before this Court. It was held that cognizance of the offence under Section 182 I.P.C., cannot be taken by the Court except upon complaint by the public servant concerned. Similar view was reiterated in **Harbans Singh v. State of Punjab and anr., 1991(3) Recent Criminal Reports 113**.*

8. In the light of the above discussion, the complaint (Calendra), filed against the petitioner under Section 182 I.P.C. is found to be not maintainable. The investigation made by the police officer and the conclusion drawn by him is found to be without jurisdiction and contrary to law. The order of the learned Magistrate dated July 14, 1990 is also unjustified and bad in law.”

In the case of Randhir's case (supra) also, this court was dealing with the similar issue, wherein, complaint was addressed to the superintendent of police and same was found to be false, but Kalandra under section 182 IPC, was filed by the Station House Officer (SHO). Relying upon Malkiat Singh's case (supra), learned Magistrate and then the Revisional Court (learned Additional Sessions Judge, Bhiwani), held that Kalandra was required to be prepared by the *officer concerned*, and not the SHO, to whom the complaint, which was declared to be false, was never moved.

Thus, order passed by the Revisional Court was maintained by this High Court in Randhir's case (supra). The relevant extract of the observation made by this court is as under:-

“2. Brief facts of the case which are necessary for disposal of the instant petition are that Bhola Ram-respondent No. 2 is alleged to have



filed a false complaint to the Superintendent of Police, Bhiwani respondent No. 3 levelling allegations of forgery with a request to register a case against the petitioner under Sections 468/467/471/420, IPC. Respondent No. 3 forwarded the application of Bhola Ram-respondent No. 2 to the Station House Officer, Police Station, Loharu i.e. respondent No. 4 who registered FIR No. 131 dated 1-10-1997 under Sections 468/ 467/471/420, IPC against the petitioner. However, on investigation the complaint filed by Bhola Ram-respondent No. 2 was found to be false. For filing a false complaint the Station House Officer respondent No. 4 filed a complaint (Calendera) under Section 182, IPC against respondent No. 2. Respondent No. 2-Bhola Ram was summoned by Sub-Divisional Judicial Magistrate, Loharu. He raised an objection that the complaint filed by respondent No. 4-Station House Officer suffers from inherent defect as he had filed a complaint for taking action under Sections 468/467/471/420, IPC before the Superintendent of Police i.e. respondent No. 3 and, therefore, he alone was competent to file the complaint (Calendera) under Section 182, IPC. The Judicial Magistrate accepted the plea and discharged Bhola Ram-respondent No. 2. Feeling aggrieved, the petitioner filed a revision petition before the learned Additional Sessions Judge who also affirmed the view taken by the Judicial Magistrate. Plac-ing reliance on Section 195, Cr. P.C. and in the cases of **Harbans Singh v. State of Pun-Jab, (1991) 3 Rec Cri R 113**; **Malkiat Singh (supra)** and **Kishan Swaroop v. Govt. of N.C.T. of Delhi, (1998) 3 Rec Criminal Reports 137**, the learned Additional Sessions Judge observed as under :-

"A careful reading of Malkiat Singh's case (1999 (1) Cri CJ 702) (supra) shows that aforesaid relevant provisions under Section 195(1), IPC (sic ? Cr. P.C.) have been reiterated. Furthermore observations made in Harbans Singh's case (1991 (3) Rec Cri R 113) (supra) have been affirmed. Therefore, it cannot be construed that in Malkiat Singh's case (supra) our Hon'ble High Court declared that a complaint made to Senior Superintendent of Police and being got investigated by concerned S.H.O. on turning false could make S.H.O. competent to move a complaint in a form of Calendera under Section 182 of the Indian Penal Code against the complainant. Calendera under Section 182 of the Indian Penal Code could either be made by Superintendent of Police to whom complaint was originally made or any officer superior to him for presentation of Calendera under Section 182 of the Indian Penal Code against the complainant in the Court.

This revision petition has been preferred by Randhir son of Duni Chand named as accused in the complaint of Bhoma Ram, respondent No. 2 to the Superintendent of Police. Said Randhir was not a party in the proceedings under Section 182 of the Indian Penal Code of S.H.O. of Police Station, Loharu which resulted into impugned order of learned Sub-Divisional Magistrate, Loharu. As per observations held in Kishan Swaroop's case (supra) Randhir Singh, petitioner could not file the present revision petition and as such it is held that present revision petition is not maintainable on his behalf."

3. Mr. Anil Ghanghas, learned counsel for the petitioner has argued that respondent No. 2-Bhola Ram should not be permitted to escape the liability of making a false report on technical ground that the complaint has not been filed by the Superintendent of Police.



According to the learned counsel, the defect in the filing of complaint can be cured by issuing directions to the Superintendent of Police to file a complaint (Calendera) against respondent No. 2 under Section 182, I.P.C.

4. *After hearing the learned counsel, I am of the considered view that this petition deserves to be dismissed because there is a prohibition engrafted by Section 195, Cr. P.C. that the Court shall not take cognizance of any offence punishable under Sections 172 to 188, I.P.C. unless a complaint in writing is made by a public servant concerned or by some other public servant to whom he is administratively subordinate. Section 195(1)(a), Cr. P.C. reads as under :-*

"195. Prosecution for contempt of lawful authority of public servant, for offences

against public justice arising for offences relating to documents given in evidence. -

(1) No Court shall take cognizance-

(a) (i) of any offence punishable under Sections 172 to 188 (both inclusive) of the

Indian Penal Code (45 of 1860), or

(ii) of any abetment of, or attempt to commit, such offence, or

(iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate."

5. *The question whether the Superintendent of Police is competent to file complaint or it could be filed even by a person subordinate to him has been subject-matter of consideration in the cases of Harbans Singh (supra); **Davinder Singh Kapoor v. State of Punjab, 1991(2) C.L.R. ;194 : 1991(1) RCR (Crl.) 149 (P&H)** and Malkiat Singh's (supra). It has been held in all the aforementioned judgments that the complaint is required to be filed by the public servant concerned i.e. by the Superintendent of Police to whom false grievance is alleged to have been made by the accused. In those cases also, it was the Station House Officer who had filed the complaint whereas the false grievance is alleged to have been made to the Superintendent of Police. Therefore, there is no room to accept the prayer made by the petitioner. Even otherwise, the public officer is an aggrieved party who should have filed an appeal or revision. Therefore, there is no merit in the instant petition and the same is liable to be dismissed."*

9. Moreover, in the Kalandra proceedings, Renuka is one of the prime witness, who as per information to this court, has already resolved all the disputes with the petitioner, by entering into compromise. Therefore, in all likelihood, she may not be that eager to get the petitioner punished at this stage, for moving the allegedly a false complaint.

10. In view of the observations made in **Malkiat Singh's case**



(supra) and Randhir's case (supra), this Court finds that Kalandra has been prepared by incompetent authority and thus same is not maintainable. Accordingly, impugned Kalandra and all other consequential proceedings stand quashed.

Pending misc. application(s), if any, also stand disposed of.

(SANJAY VASHISTH)
JUDGE

July 07, 2025

J.Ram

Whether speaking/reasoned: ✓ Yes/~~No~~

Whether Reportable: ✓ Yes/~~No~~