2025:PHHC:129756

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

**CRM-M-42704-2023 (O&M)**
**Date of decision: 17.09.2025**

VED PARKASH

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondent

**CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

Present: Mr. Vishal Malik, Advocate for the petitioner.

Ms. Vasundhara Dalal Anand, Sr. DAG, Haryana.

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**YASHVIR SINGH RATHOR, J. (Oral)**

1. The present petition has been instituted under Section 482 of Cr.P.C. for quashing of Kalandra bearing No.1818 dated 16.07.2018 under Section 182 of IPC at Police Station State Vigilance Bureau, Karnal (Annexure P-1) and all other consequential proceedings emanating therefrom.

2. Learned counsel for the petitioner as well as learned State counsel have been heard and material on file has been perused.

3. The case of petitioner is that he owned a shop at Karnal and has two registered firms namely Jai Ambey Trading Company and Raghav Traders with TIN Nos. 06952231451 and 06852238102 respectively. On 20.06.2017, at about 2:20 PM, a jeep of Sales Tax Department came at his shop from which Pawan Kumar Sharma, Inspector along with Satish Kumar Gupta alighted and they entered the shop and started getting hold of all the account books while AETO

Deepak Dutta remained seated in the jeep. In lieu of returning temporary bills (Kacha Bills), they demanded Rs.2,00,000/- from the petitioner and threatened to produce the documents before DETC, in case the amount of Rs.2,00,000/- was not paid. Finally, a sum of Rs.1,60,000/-was demanded and he handed over Rs.1,20,000/- to the driver namely Rakesh Rathi while the other two persons namely Pawan Kumar Sharma and Satish Kumar Gupta went and sat in the jeep. Rest of the amount of Rs.40,000/- was handed over to the person sent by Satish Kumar Gupta and Pawan Kumar Sharma at Devi Lal Chowk at 6:00 PM. He was also threatened that in case the payment is not made, a complaint will be lodged against him. Thereafter, petitioner filed a complaint before Director, Haryana State Vigilance Bureau, Karnal on 20.06.2017 itself and the matter was investigated but it was wrongly concluded that Satish Kumar Gupta, Inspector, Sales Tax Department, Karnal or any other officer/employee present during the checking had not received any amount or bribe, even though the act of taking bribe was captured in the CCTV footage. The CCTV footage provided by petitioner along with the complaint was not given any consideration by the investigating agency and in order to save the officials, the State Vigilance Bureau, filed a Kalandra against the petitioner through Superintendent of Police, State Vigilance Bureau, Karnal. It is submitted that Shyam Lal, Superintendent of Police, State Vigilance Bureau, Karnal has got no authority to present Kalandra in view of bar contained in Section 195 Cr.P.C., as only Director, State Vigilance Bureau or any other officer to whom he is administratively subordinate can institute the Kalandra/complaint. After presentation of the said Kalandra, learned Magistrate wrongly took cognizance of the same vide order dated 18.05.2020 ignoring the provisions contained in Section 195 Cr.P.C. and summoned the petitioner to face the trial. It is further alleged that during the course of investigation, it was nowhere proved that petitioner had intentionally given wrong information in his complaint whereas intention is one of the most important ingredients of the offence under Section 182 IPC. No offence under Section 182 IPC is made out against the petitioner and it has been prayed that the Kalandra bearing No.1818 dated 16.07.2018 and all other consequential proceedings emanating therefrom are illegal and abuse of process of law and the same be quashed.

4. Reply dated 04.10.2023 by way of affidavit of Shri Narender Kumar, Deputy Superintendent of Police, Anti Corruption Bureau, Karnal Range, Karnal has been filed by the State and learned State counsel has opposed the petition. Although, it has been admitted that the petitioner had filed a complaint against officials of Sales Tax Department, but it has been denied that they demanded any bribe or received any money as bribe from the complainant-petitioner. It has been admitted that complainant-petitioner had filed one complaint before Director General, State Vigilance Bureau (H) Panchkula dated 14.07.2017 but the same after inquiry was found to be false and no evidence was found on the basis of which it could be established that Satish Kumar Gupta, Inspector or any other officer/employee had received any amount as bribe in addition to the fine amount from Ved Parkash (complainant-petitioner). After finding the allegations in the

complaint to be false, the Inquiry Officer namely Raj Singh, DSP recommended initiation of proceedings under Section 182 IPC against the complainant-petitioner, which were accepted by Director General, State Vigilance Bureau and Additional Chief Secretary, Government of Haryana, Vigilance Department and the Director General, State Vigilance Bureau was requested to initiate action against the complainant-petitioner under Section 182 IPC, who further directed Superintendent of Police, SVB, Karnal to initiate the proceedings. It has been denied that Superintendent of Police, State Vigilance Bureau was not competent to initiate the Kalandra against the petitioner or that the Court has wrongly taken cognizance of the offence under Section 182 IPC against the complainant-petitioner. It is further submitted that a fair and impartial inquiry was conducted and only thereafter, Kalandra was submitted in the Court for adjudication. The trial has already commenced and now the case is fixed for prosecution evidence and in case petitioner has any grievance, he should avail remedies available to him before the learned trial Court and dismissal of the petition has been sought.

5. It is an admitted fact that petitioner had submitted a complaint dated 07.07.2017 (Annexure P-2) to Director General, State Vigilance Bureau, Haryana against some officials of the Sale Tax Department. It is also not in dispute that the inquiry was entrusted to Deputy Superintendent of Police, State Vigilance Bureau, Karnal, who conducted an inquiry and found the allegations to be false and recommended initiation of action under Section 182 IPC against the complainant/petitioner and thereafter, his report was approved by

Director General, State Vigilance Bureau as well as Additional Chief Secretary, Government of Haryana, Vigilance Department, who directed Director General, State Vigilance Bureau to initiate the action under Section 182 IPC. It is also an admitted fact that Director General, State Vigilance Bureau authorized Superintendent of Police, State Vigilance Bureau, Karnal to file a complaint/Kalandra against the petitioner under Section 182 IPC for giving information to the police for taking action against the officials of Sale Tax Department which was allegedly found to be false. Thereafter, the Kalandra was instituted against the petitioner in the Court of Judicial Magistrate at Karnal (Annexure P-1) and he has been summoned to face the trial.

6. Before proceeding further, it will be apposite to reproduce Section 195 Cr.P.C. which reads as under:-

> "195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence. (1) No Court shall take cognizance-
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> (a)(i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860), or
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> (ii)of any abetment of, or attempt to commit, such offence, or
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> (iii)of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or other public servant to whom he is administratively subordinate."

7. A perusal of the aforesaid provision makes it clear that no Court can take cognizance for an offence punishable under Section 182 IPC except on the complaint in writing of the public servant concerned or other public servant to whom he is administratively subordinate. In the

present case, petitioner had submitted a complaint to Director General, State Vigilance Bureau, which was marked to Deputy Superintendent of Police, State Vigilance Bureau, Karnal but was allegedly found to be false and thereafter, proceedings under Section 182 IPC have been initiated against the petitioner at the behest of Superintendent of Police, State Vigilance Bureau, Karnal. However, in the present case, the proceedings under Section 182 IPC could have been initiated only by Director General, State Vigilance Bureau to whom the complaint was submitted or any other superior officer to whom the Director General, State Vigilance Bureau was administratively subordinate and the authority to file the complaint against petitioner could not have been delegated by Director General, State Vigilance Bureau to any other person including Superintendent of Police, State Vigilance Bureau, Karnal and as such, he was not competent to institute the complaint. Consequently, learned trial Court also could not have taken cognizance of the offence on the complaint instituted by Superintendent of Police, State Vigilance Bureau, Karnal, in violation of the provisions contained in Section 195 Cr.P.C. Hon'ble Supreme Court in 2017(1) RCR (Criminal) 584, **'Saloni Arora Vs. State of NCT of Delhi'** has held that 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 2024(1) PLR 508, **'Sajjan Singh Vs. State of Haryana',** one complaint was submitted to Superintendent of Police, which was found to be false and the Kalandra was presented in the Court by Station House Officer (SHO) of the Police

Station and it was held that Kalandra initiated by SHO, was not sustainable as it violated the provisions of Section 195 Cr.P.C. and consequently, the Kalandra and all subsequent proceedings were ordered to be quashed.

8. As already discussed above, in the present case also, the Kalandra/complaint was required to be filed by Director General, State Vigilance Bureau or any officer to whom he was administratively subordinate and the kalandra/complaint could not have been instituted by Superintendent of Police, State Vigilance Bureau, Karnal and even Director General, State Vigilance Bureau could not have delegated this authority to him in contravention of the provisions contained in Section 195 Cr.P.C. Learned trial Magistrate has also gravely erred while taking cognizance of the Kalandra on the basis of complaint filed by Superintendent of Police, State Vigilance Bureau, Karnal, while summoning the petitioner to face the trial for the offence under Section 182 IPC as initiation of the proceedings at the behest of Superintendent of Police, State Vigilance Bureau itself were *void ab initio* being without jurisdiction. Resultantly, the petition in hand is accepted and Kalandra bearing No.1818 dated 16.07.2018 registered under Section 182 IPC at Police Station State Vigilance Bureau, Karnal and all the consequential proceedings qua the present petitioner are hereby quashed.

**(YASHVIR SINGH RATHOR)**
**JUDGE**

**17.09.2025**
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No