

(2012) 03 P&H CK 0121

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous M. No. 7904 of 2012

Kulwinder Singh Uppal and
others

APPELLANT

Vs

State of Punjab and another

RESPONDENT

Date of Decision: March 23, 2012

Acts Referred:

- Penal Code, 1860 (IPC) - Section 120B, 172, 173, 174, 175
- Prevention of Corruption Act, 1988 - Section 7, 8

Hon'ble Judges: Ranjit Singh, J

Bench: Single Bench

Advocate: Anmol Rattan Sidhu and Ms. Mandip Kaur, for the Appellant;

Final Decision: Dismissed

Judgement

Ranjit Singh, J.

The petitioners pray for quashing of FIR No.51 dated 19.7.2011, registered against them under Sections 182, 193, 195, 211, 217, 218 IPC and 7 and 8 of the Prevention of Corruption Act, registered at Police Station Lambra, District Jalandhar. This FIR has been registered against the petitioners in the background that petitioner No.1 had lodged an FIR No.31 dated 5.5.2011 under Sections 379, 420, 465, 468, 471, 120B IPC against three persons namely, Gurtej Singh and others. On 20.5.2011, Jatinder Kaur wife of Gurtej Singh, who was also the accused in FIR No.31, made a complaint to Inspector General of Jalandhar, who marked an enquiry to the Superintendent of Police (Head Quarter Jalandhar Rural). On the basis of the finding in this enquiry, the impugned FIR has been registered against the petitioners. The petitioners are seeking quashing of the said FIR on the ground that it is highly pre-mature.

2. It is conceded in the petition that Superintendent of Police, Headquarters, had recommended cancellation of the FIR registered against respondent No.2. The

petitioners, however, would complain that without filing any cancellation report before the Judicial Magistrate, the present FIR has been registered against the petitioner. Even the cancellation report is yet to be accepted by the competent court and, therefore, the version of the petitioner is termed as prima-facie correct. On this basis, it is stated that the FIR registered against the petitioner is illegal and unlawful and also premature.

3. The petitioner-complainant is NRI and is permanently settled in England. He has made an allegation against Gurtej Singh for having stolen certain blank stamp papers from his car parked outside his residence and for utilizing the same for fabricating agreement to sell. Upon investigation of this complaint, a detailed report was submitted to SHO, Police Station Lambra, who in turn submitted the report to the Deputy Superintendent of Police and, therefore, the FIR was registered. Some reference is made to the opinion, which was obtained from the District Attorney about the jurisdiction of the police station in regard to the offences. It is stated that thereafter the present FIR was registered. Subsequently, however, Superintendent of Police, Headquarters Jalandhar, had conducted an enquiry. It is also noticed that the final report in FIR No.31 dated 5.5.2011 has been submitted and the petitioners have already filed a protest petition against the same. However, it is stated that the cancellation report has so far not been accepted and hence, it is urged that the FIR registered against the petitioners can not be further processed. In support, the learned Senior counsel has relied on *Jarnail Singh Vs. The State of Punjab* and another, 1983 (1) R.C.R. (Criminal) 540 and *Kulwant Kaur Vs. State of Punjab*, 1997(2) R.C.R. (Criminal) 780.

4. In *Jarnail Singh's* case (supra), it is held that the complainant can not be prosecuted for an offence u/s 182 IPC except upon a complaint in writing of the Court. The ratio of law laid down in this case would not apply to the facts of the present case. The observation that the complaint could be made by the Court appears to have been made in the background that calendra was presented in the Court, when private complaint filed by the petitioner was already pending. In that context, the requirement of filing complaint by the Court was emphasized. That situation does not arise in the present case. In *Kulwant Kaur's* case (supra), prosecution was launched against the complainant u/s 182 IPC, while the complaint case was pending in the Court. In that background, the proceedings u/s 182 IPC were quashed. In fact, no complaint is pending in the present case and the FIR, which was lodged by the petitioners has been found to be false and, therefore, the police has initiated the action and has registered an FIR against the petitioners. The FIR against the petitioners is not only u/s 182 IPC but also under Sections 193, 195, 211, 217, 218 IPC and Sections 7 and 8 of the Prevention of Corruption Act. Section 193 IPC provides punishment for false evidence. Section 195 IPC punishes giving or fabricating false evidence with intend to procure conviction of an offence punishment with imprisonment for life or with imprisonment. Section 211 IPC makes an offence of making false charge of offence, which is made with intend to

injure. Sections 217 and 218 IPC talk of public servant, disobeying directions of law with intent to save a person from punishment or property from forfeiture and public servant framing incorrect record in writing with an intent to save a person from punishment or property from forfeiture respectively. Section 195(a)(i) IPC only provides that no Court shall take cognizance of offence punishable u/s 172 to 178, both inclusive of the Indian Penal Code. Similarly, no Court shall take any cognizance of any offence punishable under any of the Sections from 193 to 196, both inclusive, 199, 200, 205 to 211, both inclusive and 228, when such offence is alleged to have been committed in or in relation to any proceedings in any Court. Apparently, The bar laid down in Section 195(b)(i) IPC is not attracted in the present case. The whole stress of the submission made by learned counsel for the petitioners related to only an offence alleged u/s 182 IPC. While doing so, he is apparently ignoring that the petitioners are facing allegations for different offences, which include offences under Sections 7 and 8 of the Prevention of Corruption Act. For these offences, the falsity of the allegations made by the petitioners may not be a relevant issue while registering a case or further prosecuting the petitioners for the said FIR registered against them. Thus, no case for quashing the FIR is made out. The petition is accordingly dismissed.