
Kulwinder Singh Uppal and others Vs State of Punjab and another

Criminal Miscellaneous M. No. 7904 of 2012

Court: High Court Of Punjab And Haryana At Chandigarh

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 intent 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 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.