

Tara Devi Vs State of Haryana and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Feb. 2, 2012

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 482
Penal Code, 1860 (IPC) â€” Section 182, 323, 324, 325, 34

Hon'ble Judges: Mehinder Singh Sullar, J

Bench: Single Bench

Judgement

Mehinder Singh Sullar, J.

Concisely, the facts, which need a necessary mention for the limited purpose of deciding the core controversy,

involved in the instant petition and emanating from the record, are that, in the wake of statement of petitioner Tara Devi, a criminal case was

registered against Hira Lal and others, private respondent Nos.2 to 5, by means of FIR, bearing No.223 dated 8.7.2006 (Annexure P5), on

accusation of having committed the offences punishable u/s 323, 324 and 452 read with Section 34 IPC by the police of Police Station City

Dabwali, District Sirsa.

2. The police submitted the cancellation report dated 25.10.2006 (Annexure P6). The petitioner was not satisfied with the cancellation report. She

raised protest, stated that she was not satisfied with the police proceedings, desired to proceed with the matter and she has already filed a

complaint against the accused persons in this relevant connection. In view of pendency of private complaint (Annexure P2), the trial Magistrate

accepted the cancellation report, vide order dated 29.9.2007 (Annexure P7).

3. At the same time, the police proposed and submitted a calendra to prosecute the petitioner u/s 182 IPC in the Court, by way of impugned

report dated 17.4.2007 (Annexure P1).

4. The petitioner-complainant did not feel satisfied with the initiation of proceedings and preferred the present petition for quashing the calendra u/s

182 IPC (Annexure P1), invoking the provisions of Section 482 Cr.PC.

5. Having heard the learned counsel for the parties, having gone through the record with their valuable help and after bestowal of thoughts over the

entire matter, to my mind, the instant petition deserves to be accepted in this context.

6. Ex facie, the argument of learned counsel that since the private respondents have not yet been convicted in the complaint (Annexure P2), so, the

proceedings u/s 182 IPC cannot be quashed, is not only devoid of merit but misplaced as well.

7. As is evident from the record, that the petitioner-complainant lodged a protest to the cancellation report (Annexure P6) submitted by the police

and filed a criminal complaint (Annexure P2) against the private respondents, in regard to the same incident, which was the subject matter of FIR

(Annexure P5). It is not a matter of dispute that after taking into consideration the preliminary evidence, the trial Magistrate has summoned the

private respondents as accused to face the trial for the commission of offences punishable under sections 323, 325 and 506 read with section 34

IPC, by virtue of summoning order dated 4.2.2009 (Annexure P9).

8. Meaning thereby, the subject matter of the information is still sub-judice and the trial Magistrate is seized of the matter, relatable to the truth or

otherwise of the version projected by the petitioner in this relevant connection. In that eventuality, the proceedings u/s 182 IPC are not legally

maintainable. This matter is no more res integra and is well settled.

9. An identical question came to be decided by this Court in cases Ramesh Chand Vs. State of Haryana, 2006(4) RCR (Cri) 718 and Kehar

Singh Vs. State of Punjab CRM No.M-7093 of 2009 decided on 25.10.2010. Having considered the matter deeply, it was ruled that once the

petitioner has filed a private complaint and the accused have been summoned, then it cannot be said that the information supplied by the petitioner

was false. Therefore, the argument of the learned counsel for the petitioner that in view of the pendency of complaint and summoning order in

respect of the same offences, the proceedings u/s 182 IPC against the petitioner cannot be permitted to continue, has considerable force and the

contrary contentions of the learned counsel for respondents "stricto sensu" deserve to be and are hereby repelled under the present set of

circumstances. The ratio of law laid down in the aforesaid judgments ""mutatis-mutandis"" is applicable to the facts and circumstances of this case

and is the complete answer to the problem in hand.

10. In the light of aforesaid reasons and without commenting further anything on merits, lest it may prejudice the case of either side during the

course of trial of complaint (Annexure P2), the instant petition is hereby accepted. The initiation of proceedings u/s 182 IPC, vide report

(Annexure P-1) and all subsequent proceedings arising therefrom are hereby quashed, in the obtaining circumstances of the case.

11. Needless to state that, nothing observed here-in-above, would reflect, in any manner on merits of the main complaint case, as the same has

been so recorded for a limited purpose of deciding the present controversy u/s 182 IPC.