

(2007) 02 P&H CK 0142

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous Petition No. 12618-M of 2003

D.S. Rawat

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: Feb. 7, 2007

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 195, 482
- Penal Code, 1860 (IPC) - Section 172, 173, 174, 175, 176

Citation: (2007) 2 RCR(Criminal) 199

Hon'ble Judges: Mahesh Grover, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Mahesh Grover, J.

This is a petition u/s 482 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') for quashing the Kalendra (Annexure P-2) filed against the Petitioner by Station House Officer, Police Station, Division No. 4, Jalandhar u/s 182 of the Indian Penal Code.

2. Briefly stated the facts of the case are that the Petitioner, who is Principal of J.S. Memorial Model School, Joginder Nagar, Rama Mandi, Jalandhar Cantt. gave information to the Senior Superintendent of Police, Jalandhar vide Annexure P-1. It was alleged therein that a boy, who has been rusticated from the school, for committing some wrong deeds, was involved in giving threats of killing him on telephone for the last few days. Two other boys, namely, Bittu and Kala, who are police constables and claimed themselves to be the gunmen of some officer were also his associates. Due to their closeness with senior police officials, they committed wrong deeds by taking undue advantage and on 8th August, 2002 at 9.30 p.m., they started throwing stones at his house and ran away in the darkness of night. Due to this act, the teachers and school children had become apprehensive

and loss of studies had been caused. It was requested that the matter may be looked into and guilty be punished. It was also mentioned that the fact was earlier reported to the Police Post, Jogi Nangal Shama, but no satisfactory response was given to the complaint.

3. The Senior Superintendent of Police, Jalandhar entrusted the enquiry into the complaint of the Petitioner to Shri Harinderjit Singh, Deputy Superintendent of Police, Headquarters, Jalandhar, who found that the sister of Head Constable-Karamjit Singh (daughter of maternal uncle of Karamjit Singh) had passed 10th class from J.S. Memorial School, Joginder Nagar, Jalandhar Cantt. and other children of his maternal uncle were also studying there. When Karamjit Singh went to the school to get the certificate of his sister, Amarjit Kaur, the Principal tried to avoid him by making false assurances and did not issue the certificate. On this account, some dispute arose between them and the Principal made false allegations against Karamjit Singh and others. The ransacking of the house of the Principal and the allegations of threats was not established.

4. On the basis of the enquiry, the Kalendra u/s 182 of the I.P.C. was filed against the Petitioner in the Court of Chief Judicial Magistrate, Jalandhar for punishing him on account of giving false information to the police.

5. The Petitioner, by way of the present petition, has sought the quashing of the aforesaid Kalendra by pleading that the information given by him to the police was correct. Ajit Singh had been rusticated from the school and he along with Karamjit Singh had come to the office of the Principal of the school and threatened him. On 8.8.2002 at about 9.30 p.m., Karamjit Singh along with Ajit Singh had attacked the house, thereby damaging it.

6. Shri Sajjan Singh Cheema, Deputy Superintendent of Police, Special Branch, Jalandhar has filed reply on behalf of the State of Punjab and has prayed for dismissal of the petition by pleading that during the enquiry, the information given by the Petitioner was found false and proceedings u/s 182 of the IPC have rightly been initiated against him.

7. I have heard learned Counsel for the State and have perused the record.

8. The provisions of Section 195 of the Code of Criminal Procedure are relevant for the purposes of disposal of this petition. The same read 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 -

(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, 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;

(b)(i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, Sections 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 proceeding in any Court, or

(ii) of any offence described in Section 463, or punishable u/s 471, Section 475 or Section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or

(iii) of any criminal conspiracy to commit or attempt to commit, the abetment of, any offence specified in Sub-clause (i) or Sub-clause (ii), except on the complaint in writing of that Court, or of some other Court to which that Court is subordinate.

(2) Where a complaint has been made by a public servant under Clause (a) of Sub-section (1) any authority to which he is administratively subordinate may order the withdrawal of the complaint and send a copy of such order to the Court; and upon its receipt by the Court, no further proceedings shall be taken on the complaint:

Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

(3) In Clause (b) of Sub-section (1), the term "Court", means a Civil, Revenue or Criminal Court, and includes a tribunal constituted by or under a Central, Provincial or State Act if declared by that Act to be a Court for the purposes of this section.

(4) For the purposes of Clause (b) of Sub-section (1), a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the principal Court having ordinary original civil jurisdiction within whose local jurisdiction such Civil Court is situate:

Provided that -

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;

(b) where appeals lie to a civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceedings in connection with which the offence is alleged to have been committed.

9. of 9 paragraph in made averment bald for except Court Petitioner against Kelendra file to Jalandhar 4, No. Division Station, Police Officer, House Station authorised had authority superior administratively his or Superintendent Senior whether show record on nothing is There Jalandhar. by filed been has Kalendra whereas others, and Singh Karamjit action taking Police, application an case, instant subordinate. he whom not information false officer only informant initiated be can IPC 182 Section under complaint that shows provisions quoted above perusal a learned Single Judge of this Court held that where the false information was alleged to have been given to SSP through a complaint, the prosecution u/s 182 of the IPC could not be initiated against the complainant by a Subordinate Officer.

10. For the reasons stated above, this petition is allowed and Kalendra Annexure P-2 and all subsequent proceedings taken pursuant thereto are quashed.