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**(2018) 3 SCT 702**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Civil Writ Petition No. 1161 Of 2014 (O&M)

Ravinder Singh

APPELLANT

Vs

High Court Of Punjab  
And Haryana,  
Chandigarh And  
Another

RESPONDENT

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**Date of Decision:** July 19, 2018

**Acts Referred:**

Indian Penal Code, 1860 " Section 148, 149, 302, 304, 326, 324, 323, 427#Code of Criminal  
Procedure, 1973 " Section 378#Constitution of India, 1950 " Article 32, 226, 235

**Citation:** (2018) 3 SCT 702

**Hon'ble Judges:** A.B.Chaudhari, J; Kuldip Singh, J

**Bench:** Division Bench

**Advocate:** Rajiv Atma Ram, Nishant Bhardwaj, Bhagoti Singh, Anand Chhibber, Nimrata  
Shergill

**Final Decision:** Allowed

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**Judgement**

''''

1. The present petitioner, who was member of Punjab Civil Services (Judicial Branch) and then posted as the Civil Judge (Senior Division), Tarn''''''

Taran, was prematurely retired by the Government of Punjab vide order dated 28.3.2012 on the recommendations dated 27.2.2012 made by the''''''

Punjab and Haryana High Court.'''''

The present petition was initially filed under Article 32 of the Constitution of India before the Hon'ble Supreme Court as Writ Petition (Civil),''''

No.256 of 2012. The Supreme Court after obtaining the counter affidavit of the High Court transferred the present writ petition to this Court by,,,,

passing the following order on 9.12.2013:-,,,,

Having regard to the fact that the petitioner, who was a judicial officer, has challenged his premature retirement, we are satisfied that this is not a fit",,,,

case where we should invoke our jurisdiction under Article 32 of the Constitution of India as petitioner's grievance can be adequately redressed by the,,,,

High Court in its jurisdiction under Article 226 of the Constitution of India.,,,,

2. Since the respondent No.1 " High Court of Punjab and Haryana on administrative side has already filed counter affidavit to the Writ Petition, we",,,,

transfer this Writ Petition along with counter affidavit and other documents to the High Court for treating it as a Writ Petition under Article 226 of the,,,,

Constitution of India and decide the same appropriately in accordance with law as expeditiously as may be possible and preferably by the end of year,,,,

2014.,,,,

3. The Registry shall transmit the entire record and proceedings of the Writ Petition to the High Court of Punjab and Haryana.,,,,

4. The Registry of the High Court of Punjab and Haryana on receipt of the record and proceedings of the Writ Petition shall register the case and,,,,

proceed with the matter accordingly.,,,,

5. So far as this Court is concerned, Writ Petition stands disposed of.",,,,

This is how the writ was received by this Court.,,,,

On 9.6.1992, petitioner having been selected in Punjab Civil Services (Judicial Branch) was appointed as Sub Judge-cum-Judicial Magistrate in the",,,,

State of Punjab. Petitioner was subsequently promoted as,,,,

Additional Civil Judge (Senior Division) and also designated as Chief Judicial Magistrate and Civil Judge (Senior Division). He was promoted as the,,,,

Additional Sessions Judge (Fast Track Court) on 28.8.2008. Date of birth of the petitioner is 26.5.1960. Therefore, he was to complete 50 years of",,,,

service on 25.5.2010. Matter regarding his retention in service was put up before Full Court on 20.4.2010. The Full Court deferred the matter till the,,,

latest inspection remarks for the year 2009-2010 were available. On 25.5.2010, the petitioner attained the age of 50 years. In the meanwhile, ACRs of",,,,

the petitioner for the years 2007-08 and 2008-09 were recorded by the then Administrative Judges as "below average. The matter was,,,,

deferred by the Full Court from time to time.,,,,

On 21.9.2010, a complaint was received from one Sujjar Singh, leveling allegations of illegal gratification in acquitting some of the accused in a case",,,,

titled as State vs. Satnam Singh and others while the petitioner was posted as the Additional Sessions Judge (Fast Track Court), Gurdaspur. The",,,,

matter was again deferred by the Full Court from time to time. On 31.3.2011, due to discontinuation of Fast Track Scheme by the Central",,,,

Government, the petitioner was repatriated and posted as Civil Judge (Senior Division). Petitioner challenged the said repatriation by way of filing of",,,,

Writ Petition (Civil) No.177 of 2011 under Article 32 of Constitution of India before Apex Court titled as Baljinder Sidhu vs. State of Punjab for,,,,

directing the High Court to regularize the services of the petitioner to the post of the Additional District & Sessions Judge.,,,,

On the said complaint of Sujjar Singh, the then Administrative Judge directed the District Judge (Vigilance) to inquire into the complaint. The report of",,,,

the District Judge (Vigilance) was put up before the then,,,,

Administrative Judge of Gurdaspur Sessions Division, who opined that the complaint is vague and initiation of disciplinary action against the petitioner on",,,,

such complaint would be an exercise of futility. However, he ordered that the complaint be put up before the Full Court at the time of consideration of",,,,

his case for retention. However, Administrative Judge for the year 2010-11 awarded him B + (Good) report. The report for the year 2009-10 was also",,,,

recorded as B+ (Good) by the then Administrative Judge.,,,,

The Full Court considering the entirety of circumstances vide recommendations dated 27.2.2012, recommended the premature retirement of the",,,,

petitioner. Judicial work of the petitioner was withdrawn on 28.2.2012. The Governor of Punjab, after accepting recommendations of the High Court," ,,,,

prematurely retired the petitioner from service vide order dated 28.3.2012.,,,,

By way of an amendment before this Court, the petitioner has also sought the quashing of the adverse remarks in ACRs for the years 2007-08 and" ,,,,

2008-09. He has also sought the quashing of the order dated 28.3.2012 passed by the Governor of Punjab, prematurely retiring him and also the" ,,,,

recommendations of the Full Court of this Court dated 27.2.2012, vide which, such recommendations for premature retirement were made. The" ,,,,

petitioner also claimed consequential benefits, including continuity in service, seniority, further promotion, arrears of pay etc. along with interest @" ,,,,

12% per annum. Petitioner claimed that the order passed against him is arbitrary, unreasonable and not based on the material. The principles of natural" ,,,,

justice have been violated. The ACRs could not be recorded without their being any material to form the basis thereof. There was no report of" ,,,,

integrity doubtful and earlier service record of the petitioner was good and so were the last two ACRs for the years 2009-10 and 2010-11.,,,,

In the counter affidavit filed by the High Court through Registrar General, it was stated that Annual Confidential Reports for the years 1993-94, 1997-" ,,,,

98 were "Satisfactory". It was further stated that the earlier guidelines of 20.9.1979 that an officer having last ACR "Satisfactory" + (Good) be" ,,,,

allowed to be continued in service, were amended vide subsequent decision of Full Court dated 14.3.2011, in which, it was resolved that last Five" ,,,,

years ACRs have to be consistently Good. The High Court also reproduced the remarks in the ACRs for the year 2004-05 recorded by the then" ,,,,

Administrative Judge when he was posted as Chief Judicial Magistrate, Faridkot, wherein certain remarks were made regarding deciding only petty" ,,,,

cases and he was advised to decide really contested cases. Representation against the said remarks was declined. It was pleaded that Administrative" ,,,,

Judge of Jalandhar Sessions Division for the year 2007-08 recorded the following adverse remarks:-" ,,,,

7 Integrity No specific complaint but generally,,,,

. oral complaints made anonymously,,,,

8

."General assessment

regarding strength and

shortcomings", "As per report of the D.J. (annexed)

officer lacks dedication. I agree

with his assessment",,

9, Grading---, C-Below Average,,

,"PART-III

Remarks of the

Administrative Judge", "The officer does not enjoy good

reputation though no specific

complaint received. The Distt. &

Sessions Judge has given adverse

report about his working. I am in

agreement with the D.J. His

integrity may kept under watch.",,

dated 13.6.2003 under Sections 302, 326, 324, 323, 427, 148, 149 IPC Police Station Dhariwal, District Gurdaspur. The then Administrative Judge vide",,,,

order dated 30.3.2011 directed District Judge (Vigilance) Punjab to look into the matter and report in fortnight. The post of District Judge (Vigilance),,,,

was redesignated as Registrar (Vigilance). As such Registrar (Vigilance) examined the file and submitted the report dated 18.5.2011, in which, it was",,,,

noticed that appeal against the said judgment has already been preferred. It was not told as to whether the State has filed any appeal under Section,,,,

378 Cr.P.C. Registrar (Vigilance) stated that he has perused the judgment and found that prima-facie patent perversity has pervaded the entire gamut,,,,,

of the judgment pronounced by Shri Ravinder Singh, the then Additional Sessions Judge Gurdaspur. It was recommended that this Court has every",,,,

authority to entertain suo moto Criminal Revision invoking the provisions under Section 378 Cr.P.C. as patent perverse findings have been recorded by,,,,,

the trial Judge. The subsequent Administrative Judge before whom file was put up, inter alia, passed the following order:-",,,,

The complaint lodged by the complainant party as such cannot be proceeded to the logical end as the complainant was not a witness to the bribe given,,,,,

by the accused party to the officer concerned, nor had he gathered the information from the first hand source. In my considered opinion initiation of",,,,

disciplinary proceedings as against the Judicial Officer concerned based on such a vague complaint would be an exercise in futility. But on a careful,,,,,

perusal of the entire judgment, in the background of the complaint given by the complainant, I am of the strong opinion that the judgment has not been",,,,

based on merit but for extraneous consideration. Therefore, the Registry shall bring to the notice of the Hon'ble the Acting Chief Justice, the serious",,,,

allegations made in the complaint as against the Judicial Officer Shri Ravinder Singh while taking up his case for retention in service.,,,,

In this way, the matter was ordered to be brought to the notice of the Hon'ble the Acting Chief Justice. The Hon'ble the Acting Chief Justice",,,,

ordered that let report be included in the matter already referred to Full Court on the issue of retention in service. However, the Acting Chief Justice",,,,

found that no suo moto Criminal Revision is to be filed. It was stated that appeal against the said judgment is pending before this Court and appeal,,,,,

against the acquittal is also pending before this Court. It was admitted that for the year 2010-11, the then Administrative Judge, after considering the",,,,

complaint of Sujjar Singh, observed that since the matter is pending before this Court in Criminal Appeal and that the District Judge (Vigilance) has not",,,,

gone into the allegations of illegal gratification and had given his opinion after perusing the case file only and even the Administrative Judge of,,,

Gurdaspur Sessions Division has found that disciplinary proceedings based on such a vague complaint would be exercise in futility, therefore",,,,

Administrative Judge refrained from considering the above said material and granted 'A' (Good) report. It was stated that in view of the said,,,

two ACRs and the complaint the Full Court in the meeting held on 27.2.2012 resolved that keeping in view the entire service record, the petitioner be",,,,

not allowed to continue in service and recommendations be made to the Punjab Government that officer be retired from service forthwith by giving,,,

him three months 'A' pay and allowances in lieu of notice as required by the rules as it would be in the public interest to do so. Accordingly, Punjab",,,,

Government passed the order dated 28.3.2012 vide which, the petitioner was prematurely retired.",,,

Regarding writ petition filed titled Baljinder Sidhu vs. State of Punjab for regularization of service, it was stated that after suitability test, certain",,,,

officers were posted as Additional District and Sessions Judge. However, the said issue of regularization of services of Ad hoc Additional Sessions",,,,

Judge (Fast Track Court) is not involved in the present case.,,,,

We have heard learned counsel for the petitioner Shri Rajiv Atma Ram, learned counsel for the High Court Mr. Anand Chhibbar and have also",,,,

minutely and critically examined the documents placed on file by both the parties and the original ACRs as well as personal file of the petitioner.,,,,

It comes out that the petitioner has been prematurely retired after having attained the age of 50 years primarily on two grounds:,,,

(i) ACRs for the year 2007-08 and 2008-09 were graded 'C' Below Average,,,

(ii) that there was a complaint filed by one Sujar Singh regarding illegal gratification and that his judgment was found to be defective and perverse.,,,,

First of all, we will take up the issue regarding adverse ACRs for the years 2007-08 and 2008-09, since, the petitioner has prayed for quashing of said",,,,

ACRs on the ground that these are not based on any material and are in violation of principles of natural justice.,,,,

The question as to whether Annual Confidential Reports containing adverse remarks are subject to judicial review, was examined by a Division Bench",,,,

of this Court in *Jatinder Pal Singh vs. High Court of Punjab and Haryana*, 2015(4) SCT 1. The question regarding complaints against judicial officers",,,,

and action on the same was also examined and the following observations were made by the Division Bench of this Court:-,,,

34) There is a growing tendency of making false and fabricated complaints against Judges at all levels, especially the District Judiciary. Realising this",,,,

menace, High Court has issued office order dated 10.04.2015 with reference to DO letter No. CJI/CC/Comp/2014-15 dated 3.10.2014 of the Hon'ble",,,,

Chief Justice of India that complaints should not be entertained in the absence of supporting affidavit. The said order is to protect the judicial officers.,,,,

In other words not to entertain false and fictitious complaints. Extract of the order reads as follows:-,,,

i) The complaint making allegations against members of the Subordinate Judiciary in the States will not be entertained and no action will be taken",,,,

thereon, unless it is accompanied by a duly sworn affidavit of the complainant and verifiable material to substantiate the allegations made therein;",,,,

ii) If action on such complaint meeting the above requirement is deemed necessary, authenticity of the complaint will be duly ascertained and further",,,,

steps thereon will be taken only after satisfaction of the competent authority designated by the Chief Justice of the High Court; and,,,

iii) If the above requirements are not complied with, the complaint will be filed/lodged without taking any steps thereon."",,,,

Regarding the scope of interference by this Court in the remarks in the ACRs, it was observed that it was quite limited and the following observations",,,,

were made:-,,,

35. There is no doubt that the scope of interference with the remarks in a ACR is quite limited. However, having regard to the factual aspects of the",,,,

present case, in our considered view, the decision of the then Hon'ble Administrative Judge and its approval by the High court was clearly erroneous",,,,

for the reason that if there were some serious allegations made against petitioner in that case it was necessary to hold an enquiry. However, if it was",,,,

a case of gathering overall report on the general reputation of officer, the most damaging remarks ought to have been supported by any material",,,,

evidence/any reason. Or in the alternative the petitioner should have been given opportunity to meet those allegations by way of furnishing copy of the",,,,

complaints and to seek his explanation or against those allegations. It is relevant to note that writing of ACR against an officer/employee is akin to",,,,

quasi judicial function. The Apex Court has held that if there are civil consequences, necessary and reasonable opportunity should be given to the",,,,

concerned person. In the present case against ACR, the petitioner submitted a detailed representation but no reasons are discernible while rejecting",,,,

the same. It is to be noted that even the administrative decisions must be supported by reasons when it is appealable or for judicial review, since",,,,

effective appeal would be deprived.,,,,

Therefore, it was observed that writing of ACRs against an officer/ employee are akin to quasi judicial function. If there are civil consequences,",,,

1,"Quality of work:-

(a) Conduct of business in

Court and office

(b) Quality of Judgment","Average

Average",,

2,Quantity of work,Average,,

3,"Capacity of management,

leadership, initiative,

planning and decision

making",Average,,

4,"Inter personal relationship

and team work",Average,,

5,State of health,Good,,

6,"Period under observation of

the Administrative Judge",2007-08,,

7,Integrity,"No specific complaint but

generally oral complaints

made anonymously",,

8,"General assessment-

regarding strength and

shortcomings" ,"As per report of the D.J.

(annexed), the officer lacks

dedication. I agree with his

assessment.",,

9,"Grading-

A Plus(Outstanding)

A-Very Good, C Plus

(Good), B-Average/

Satisfactory, C-Below

Average",C-Below Average,,

,"PART-III

Remarks of the

Administrative Judge","The officer does not enjoy

good reputation though no  
specific complaint received.

The Distt. & Sessions Judge  
has given adverse report  
about his working. I am in  
agreement with the D.J. His  
integrity may kept under  
watch." ,,

1,Civil suit,66,78,422

2,Rent cases,32,43,146

3,Execution petition,-,155,135

4,Arbitration Act cases,1,1,0.35

5,Election petitions,-,-,-

6,Objections petitions,-,-,-

7,Civil cases,-,-,-

8,Small cause cases,-,-,-

9,Pauper applications,-,-3,1.5

10,E.S.I. Cases,4,4,10

11,Stay/Injunction applications,15,-,15

12,Insolvency Act cases,4,1,8.5

13,G&W Act cases,9,145,89

14,C.M.P.,-,-,-

15,Probate cases,-,-,-

16,Misc. Applications,6,63,42

17, Succession Act cases, 3, 35, 26

18, Trust Act cases, -, -, -

19, Haryana Panchati, -, -, -

1, U/S 125 Cr.P.C. Cases, 4, 41, 32.5

2, 446 Cr.P.C. Cases, -, -, -

3, E.C. Act cases, -, 1, -

4, N.D.P.S. Act cases, -, 1, -

5, "Cases under IPC

(Police Challans)", 92, 75, 447

6, Police Act, -, -, -

7, P.F. Act, -, -, -

8, Drug Act cases, 1, 2, 3

9, "Utraced/ Cancellations

Rreports", -, 31, -

10, Food Act Cases, 84, 37, 254.5

11, P.A. Act, -, -, -

12, Crl. Misc. cases, -, -, -

13, RPF Act cases, -, -, -

15, Complaint cases, -, -, -

16, "Summary challans

(Acts)", 3, 32, 11.25

17, "Private Criminal

Complaints", -, -, -

18, 488 Cr.P.C., -, -, -

19,7 E.C. Act,-,-,-

20,Crl. Execution,-,-,-

21,Complaint IPC,1,10,14

22,Juvenile Act,-,-,-

23,Juvenile IPC,-,-,-

24,"Summary/ Traffic

Cases",- ,6438,247

25,"Any other category

(Summary others)" ,- ,132,3

3,"Are his/ her judgments and

orders well written and

clearly expressed?

(Category in which the

judgments are to be placed,

viz. A Plus Outstanding, A-

Very Good, B Plus (Good),

B-Average/ Satisfactory, C-

Below Average)",B+ Good,,

4,"Is his/ her supervision of the

distribution of business

amongst and his/ her

control on the subordinate

courts, good?",Yes,,

5,"Is he/ she an efficient

Judicial Officer", Yes,,

6, "Has he/ she maintained

judicial reputation for

honesty and impartiality?", Yes,,

7, "Remarks about his/ her

attitude towards his/ her

superiors, subordinates and

colleagues", Good,,

8, "Behaviour towards

members of the Bar and the

Public", Good,,

9, Net result, "Good

B+ Good",,,

3, "(a) How many times have

you visited/ inspected the

Section of which you are

Incharge", "As Civil Judge, (Sr.Divn.) I was

Incharge of Judicial Record Room

which was being inspected by me

regularly along with Nazarat Branch

& Process Serving Agency.",,

, "(b) What short-comings

did you notice and how

did you rectify them?", "There was lack of staff in Judicial

Record Room and the condition of the

Building is not good. Shifting of the

same is Recommended",,

1,"Quality of work:-

(a) Conduct of business in

Court and office","The conduct of Court

business is very good. He

displays transparency and

exercises effective control.",,

,(b) Quality of Judgment,Good,,

2,Quantity of work,"The officer gave disposal of

1051.5 units during the

period under report which

is more than the prescribed

norm.",,

3,"Capacity of management,

leadership, initiative,

planning and decision

making","The officer has all the

qualities of management,

leadership and is quick in

decision making. He has the

potential to plan ahead and

needs to apply himself more

in that direction.",,

4,"Inter personal relationship

and team work","Good. He maintains cordial

relationship with the

members of the bar and

displays the spirit of hard

work.",,

5,State of health,Very Good,,

6,"Period under observation of

the Administrative Judge",1.4.2008 to 31.3.2009,,

8,"General assessment-

regarding strength and

shortcomings" ,"He should continue with the

efforts for improving his

reputation for integrity.

This is the biggest

shortcoming.",,

9,"Grading-

A Plus(Outstanding)

A-Very Good, B Plus

(Good), B-Average/

Satisfactory, C-Below

Average",C-Below Average,,

A three Judges Bench of the Apex Court in Ramesh Chander Singh vs. High Court of Allahabad and another, 2007(2) Recent Apex Judgments 383",,,,

examined the issue of initiating disciplinary proceedings against the Judge, on the basis of the wrong judicial order of bail. The relevant extracts from",,,,

the said judgment are as under:-,,,,

11. We fail to understand as to how the High Court arrived at a decision to initiate disciplinary proceedings solely based on the complaint, the contents",,,,

of which were not believed to be true by the High Court. If the High Court were to initiate disciplinary proceedings based on a judicial order, there",,,,

should have been strong grounds to suspect officer's bona fides and the order itself should have been actuated by malice, bias or illegality. The",,,,

appellant-officer was well within his right to grant bail to the accused in discharge of his judicial functions. Unlike provisions for granting bail in TADA,,,,,

Act or NDPS Act, there was no statutory bar in granting bail to the accused in this case. A Sessions Judge was competent to grant bail and if any",,,,

disciplinary proceedings are initiated against the officer for passing such an order, it would adversely affect the morale of subordinate judiciary and no",,,,

officer would be able to exercise this power freely and independently.,,,,

12. This Court on several occasions has disapproved the practice of initiation of disciplinary proceedings against officers of the subordinate judiciary,,,,,

merely because the judgments/orders passed by them are wrong. The appellate and revisional courts have been established and given powers to set,,,,

aside such orders. The higher courts after hearing the appeal may modify or set aside erroneous judgments of the lower courts. While taking,,,,,

disciplinary action based on judicial orders, High Court must take extra care and caution.",,,,,

The Apex Court, while referring the case of Iswar Chandra Jain v. High Court of Punjab and Haryana, AIR 1988 SC 139,5 made the following",,,,

observations regarding complaint being entertained by the High Court encouraging anonymous complaints:-,,,,,

13. In Iswar Chandra Jain v. High Court of Punjab and Haryana, AIR 1988 SC 1395, this Court observed that while exercising control over",,,,

subordinate judiciary under Article 235 of the Constitution, the High Court is under a Constitutional obligation to guide and protect subordinate judicial",,,,

officers. An honest and strict judicial officer is likely to have adversaries. If complaints are entertained in trifling matters and if the High Court,,,

encourages anonymous complaints, no judicial officer would feel secure and it would be difficult for him to discharge his duties in an honest and",,,,

independent manner. It is imperative that the High Court should take steps to protect honest judicial officers by ignoring ill- conceived or motivated,,,

complaints made by unscrupulous lawyers and litigants.,,,,

The Apex Court also referred to the case of Lunjarrao Bhikaji Nagarkar vs. Union of India 1999(3) S.C.T. 835 AIR 1999 SC 288 1and observed as,,,

under:-,,,,

17. In Lunjarrao Bhikaji Nagarkar v. Union of India, AIR 1999 SC 2881, this Court held that wrong exercise of jurisdiction by a quasi judicial authority",,,,

or mistake of law or wrong interpretation of law cannot be the basis for initiating disciplinary proceeding. Of course, if the Judicial Officer conducted",,,,

in a manner as would reflect on his reputation or integrity or good faith or there is a prima facie material to show recklessness or misconduct in,,,

discharge of his duties or he had acted in a manner to unduly favour a party or had passed an order actuated by corrupt motive, the High Court by",,,,

virtue of its power under Article 235 of the Constitution may exercise its supervisory jurisdiction. Nevertheless, under such circumstances it should be",,,,

kept in mind that the Judges at all levels have to administer justice without fear or favour. Fearlessness and maintenance of judicial independence are,,,

very essential for an efficacious judicial system. Making adverse comments against subordinate judicial officers and subjecting them to severe,,,

disciplinary proceedings would ultimately harm the judicial system at the grassroot level.,,,,

A Division Bench of Gujarat High Court headed by the Chief Justice of the said High Court, in a similar matter, in S.J.Pathak, Ex.Addl. Sessions",,,,

Judge v. State of Gujarat and others, 2010(1) SCT 68, made the following observations:-",,,,

25.....",,,,

The premises that a Judge committed a mistake or an error beyond the limits of tolerance, is no ground to inflict condemnation on the Judge",,,,

Subordinate, unless there existed something else and for exceptional grounds. Principle laid down by the Apex Court, in our view, clearly applies to the",,,,

facts of this case. Judicial pronouncement in the absence of clear cut evidence of favouratism, lack of integrity, corrupt practices, extraneous",,,,

consideration etc. cannot be the foundation of disciplinary proceedings or else it will affect the judicial freedom and independence. Judicial officers",,,,

have to be saved to uphold the rule of law and the independence of judiciary. If the High Court entertains anonymous complaints which are frivolous",,,,

or motivated and originated from unscrupulous lawyers and litigants, no judicial officers would be secure and would not be able to discharge their",,,,

duties without fear or favour. Judicial officers especially dealing with bail matters, cannot dance to the tune or dictates of lawyers but has to act in",,,,

accordance with the settled principles of law. The Bench headed by the Chief Justice also imposed the costs of Rs.15,000/- on the High Court for",,,,

wrong decision.",,,,

Yet in another case, Apex Court in Kashi Nath Roy vs. State of Bihar, 1996(2) R.C.R. (Criminal) 340, recommendations of the High Court for taking",,,,

action against the Judge for granting bail were set aside.",,,,

A Division Bench of this Court in Jatinder Pal Singh & Ors case (supra), also noticed the tendency of making false and fabricated complaints against",,,,

the Judges at all level specially, the district judiciary and also referred to the extract of the order that such complaints should be accompanied by duly",,,,

sworn in affidavit and verifiable material, to substantiate allegations made therein.",,,,

In the light of the law laid down above, this Court proceed to examine the complaint made by Sujjar Singh pertaining to Sessions Case No.45 of 2003",,,,

titled as State vs. Satnam Singh @ Satta etc. bearing FIR No.94 dated 13.6.2003 under Sections 302, 326, 324, 323, 427, 148, 149 IPC Police Station",,,,

Dhariwal, District Gurdaspur.",,,

The perusal of the said undated complaint goes to show that it was a hand written complaint in Punjabi, made to a particular Judge of the High Court",,,,

and not to the Chief Justice, Administrative Judge or the Registrar of the High Court. The said Judge ordered that the said complaint be put up before",,,,

the Chief Justice. In the complaint, only name of the complainant Sujjar Singh son of Nishan Singh is given. Complete residential address is not given",,,,

though, it is mentioned as village Khunda, Police District Batala.",,,

It is to be noted that generally complaints are addressed to the Chief Justice or the Administrative Judge or the Registrar of the High Court and not only",,,,

to one particular Judge. Unfortunately, this Judge happens to be the same Judge, who was the District Judge, Jalandhar and who had recorded lengthy",,,,

annexures, which were agreed to by the Administrative",,,,

Judge and were made basis for recording grading "Below Average report for the year 2007-08. At the time of complaint, said District Judge",,,,

was elevated as High Court Judge. As per reply of the High Court, the complaint was made on 21.9.2010, when the petitioner had already completed",,,,

the age of 50 years. Timings of the complaint is also material. In the complaint, allegations were leveled that the petitioner, while working as Additional",,,,

Sessions Judge (Fast Track Court), Gurdaspur, sentenced accused No.1 for three years under Section 304 part II instead of Section 302 IPC and 3",,,,

accused were acquitted and 3 accused were sentenced for 1 ½ year imprisonment. It was alleged that the said order has been passed by taking",,,,

illegal gratification.,,,,

First of all, we are of the view that since, it was vague complaint, the same should have been ignored. However, the then Administrative Judge asked",,,,

the District Judge (Vigilance) to look into the same, who examined the judgment and found some defects in the same. The matter was put up before",,,,

subsequent Administrative Judge, who inter-alia, passed the following order dated 27.5.2011:-",,,,,

The complaint lodged by the complainant party as such cannot be proceeded to the logical end as the complainant was not a witness to the bribe given,,,,,

by the accused party to the officer concerned, nor had he gathered the information from the first hand source. In my considered opinion initiation of",,,,,

disciplinary proceedings as against the Judicial Officer concerned based on such a vague complaint would be an exercise in futility. But on a careful,,,,,

perusal of the entire judgment, in the background of the complaint given by the complainant, I am of the strong opinion that the judgment has not been",,,,,

based on merit but for extraneous consideration. Therefore, the Registry shall bring to the notice of the Hon'ble" ,,,,,

Acting Chief Justice, the serious allegations made in the complaint as against the Judicial Officer Shri Ravinder Singh while taking up his case for" ,,,,,

retention in service.,,,,,

Perusal of the order shows that the then Administrative Judge found that complainant Sujar Singh is not witness to the bribe nor he has gathered,,,,,

information from first hand source. Therefore, the disciplinary proceedings against the judicial officer concerned, based on such vague complaint," ,,,,,

would be exercise in futility. However, in the same breath, he found that on the careful perusal of the entire judgment, in the background of the" ,,,,,

complaint, given by the complainant, he is of the strong opinion that judgment has not been based on merits but on extraneous consideration." ,,,,,

Therefore, Registry was directed to bring it to the notice of the Acting Chief Justice. Unfortunately, said complaint was also put up when the case of" ,,,,,

the retention of the petitioner was placed before Full Court. The net effect was that the complaint, which was found to be vague and the disciplinary" ,,,,,

proceedings would have been exercise in futility, was apparently relied upon by the Full Court and taken to be proved, while considering the case of" ,,,,,

the retention of the petitioner. Therefore, in addition to two  $\hat{A}\hat{C}\hat{A}$ - $\hat{E}\hat{o}\hat{C}\hat{A}$ - $\hat{a}$ , $\hat{C}$  (Below Average) reports, this complaint proved to be a last nail in the coffin of" ,,,,,

the judicial officer.,,,,

We note that while exercising control over subordinate judiciary under Article 235 of the Constitution, the High Court is under a Constitutional",,,,

obligation to guide and protect subordinate judicial officers.,,,,

An honest and strict judicial officer is likely to have adversaries. If complaints are entertained in trifling matters and if the High Court encourages,,,

anonymous complaints, no judicial officer would feel secure and it would be difficult for him to discharge his duties in an honest and independent",,,,

manner. It is imperative that the High Court should take steps to protect honest judicial officers by ignoring ill- conceived or motivated complaints,,,

made by unscrupulous lawyers and litigants.,,,,

In order to satisfy ourselves about the allegations, we have gone through the said judgment minutely and carefully." ,,,,

Admittedly, in this case, the appeal against the conviction by five accused and appeal against acquittal of three accused is pending before this Court." ,,,,

Therefore, we will refrain from making any comments on the merits of the case, which may prejudice the decision of the said appeals." ,,,,

Perusal of the judgment shows that eight accused were tried for the murder of one person, namely, Kashmir Singh. In this case, there were five" ,,,,

injured also, namely, Sukhwinder Singh, Bhajan Singh, Baldev Singh, Amrik Singh and Harpal Singh. In the said case, Sujjar Singh is neither" ,,,,

complainant nor a witness in the case, nor he claims to be related to them. Complainant in this case is one Harpal Singh. In the said case, there was a" ,,,,

dispute regarding land. Kashhmir Singh is stated to have been run over with the tractor twice by one Sulakhan Singh accused. The other accused had,,,

allegedly caused injuries to the injured. Perusal of the judgment shows that learned Additional Sessions Judge exhaustively and critically examined the,,,

evidence on merits. Plea of alibi of one of the accused was also considered and medical evidence produced in the said case showing injuries on the,,,

victim Kashmir Singh and five injured was also examined. The,,,

Judge (present petitioner) was of the view that the injuries attributed to three accused, namely, Avtar Singh, Balwinder Singh and Gurmial Singh are",,,,,

not supported by medical evidence and therefore, he found that they have been falsely implicated. However, the remaining five accused were",,,,,

convicted. The petitioner, while acting as Additional Sessions Judge (Fast Track Court), Gurdaspur, also considered the fact that occurrence took",,,,,

place in the fields of the accused and after critically examining the entire evidence, he took the view that out of 21 injuries on five persons, only 11",,,,,

have been explained. Therefore, he was of the view that case falls under the purview of Section 304 Part II IPC and not under the purview of Section",,,,,

302 IPC and accordingly, four accused were convicted under Section 326 IPC and sentenced to undergo Rigorous Imprisonment for two years in",,,,,

addition to fine, while one accused Sukhchain Singh was convicted under Section 304 Part II and sentenced to undergo Rigorous Imprisonment for",,,,,

three years.,,,,,

We are of the considered view that on the analysis of oral and medical evidence, learned Additional Sessions Judge (Fast Track Court), petitioner in",,,,,

this case, had taken a view, which is supported by reasoning, which at the most could be one of the possible view. Therefore, for taking one possible",,,,,

view, on the basis of the evidence, he could not be condemned on the basis of an anonymous complaint of one Sujjar Singh. There is also no ground to",,,,,

conclude that there could be some motive on the part of the petitioner. The petitioner, while passing the judgment, took into consideration the tendency",,,,,

to rope in as many as members of the other party. In this case, for one murder, eight persons were named and the officer was of the view that the",,,,,

deceased could not die in the way alleged by the complainant and witnesses. Therefore, it was unjust to doubt the integrity of the petitioner on the",,,,,

basis of the said complaint. Further, it was found that the complaint is vague and disciplinary proceedings will not succeed. There was no reason to",,,,,

order the putting up of the complaint before the Full Court for consideration along with two adverse ACRs of the petitioner so as to bias the Full Court.,,,,,

and project as if the said allegations regarding illegal gratification alleged in the complaint, are taken to be proved. Therefore, said complaint could not" ,,,,

be made basis of premature retirement of the petitioner from service.,,,,

Mr.Rajiv Atma Ram has prayed for applying the principle of lifting of veil in this case to find out real reason for passing of impugned order. The,,,,

principle of lifting of veil to find out the real cause of decision of premature retirement of an employee was discussed in Ram Ekbal Sharma vs. State,,,,

of Bihar and another, 1993(3) S.C.T. 621: 1990(3) SCC 504 and it was held as under:-" ,,,,

“On a consideration of the above decisions the legal position that now emerges is that even though the order of compulsory retirement is couched,,,,

in innocuous language without making any imputations against the Government servant who is directed to be compulsorily retired from service, the" ,,,,

court, if challenged, in appropriate cases can lift the veil to find out whether the order is based on any misconduct of the Government servant" ,,,,

concerned or the order has been made bonafide and not without any oblique or extraneous purposes. Mere form of the order in such cases cannot,,,,

deter the court from deriving into the basis of the order if the order in question is challenged by the concerned Government servant as has been held,,,,

by this Court in Anoop Jaiswal case (1984(2) SCC 369).,,,,

Learned counsel for the petitioner has also relied upon some more judgments rendered by the Apex Court in Ratensh Kumar Choudhary vs. Indira,,,,

Gandhi Institute of Medical Sciences, Patna, Bihar and others, 2015(9) JT 363, State Bank of India and others vs. Palak Modi and another, 2013(1)" ,,,,

S.C.T. 387 and Secretary, Haryana State Electricity Board vs. Suresh, 1999(2) S.C.T. 600, to press for the application of said principle of lifting of veil" ,,,,

in the present.,,,,

We are of the the view that present case is a fit case where the said principle of lifting of veil to find the real cause for premature retirement of the,,,,

petitioner needs to be applied. In the present case, though it is stated that the petitioner has been retired in public interest but one of the real cause was" ,,,,

the unauthenticated complaint made by Sujjar Singh, which though found to be vague and the disciplinary proceedings would have been exercise in" ,,,,

futility, but the same was ordered to be put up before the Full Court at the time of retention of the petitioner in service and the same was considered" ,,,,

by the Full Court. The consideration of the said complaint was given an impression that as if the allegations in the said complaint have been fully ,,,,

proved and the officer is dishonest officer. ,,,,

The net result is that the adverse remarks in the ACRs for the years 2007-08 and 2008-09 are liable to be expunged and the complaint made by Sujjar ,,,,

Singh is also liable to be ignored being baseless. ,,,,

In view of the foregoing discussion, we allow the petition and pass the following orders:-" ,,,,

i) The adverse remarks recorded in the ACRs of the petitioner by the Administrative Judge for the years 2007-08 and 2008- 09 are hereby expunged ,,,,

and considering the ACRs of the petitioner from the years 1997-98 when he became Additional Civil (Senior Division) till the year 2006-07 and the ,,,,

ACRs for the years 2009-10 and 2010-11, these ACRs are to be taken as "Satisfactory" (Good). " ,,,,

ii) Complaint made by Sujjar Singh dated nil is found to be frivolous and is ordered not to be acted upon. ,,,,

iii) The recommendations of the High Court dated 27.2.2012 (Annexure P2), recommending premature retirement of the petitioner from service and" ,,,,

the order dated 28.2.2012 (Annexure P2 colly) withdrawing the judicial work of the petitioner and the order of the Governor of Punjab/ Government of ,,,,

Punjab dated 28.3.2012 (Annexure P1) prematurely retiring the petitioner from service i.e. Punjab Civil Service (Judicial Branch) with immediate ,,,,

effect by giving three months "Satisfactory" pay and allowances in lieu of the notice, are also hereby quashed." ,,,,

iv) The petitioner is ordered to be reinstated in service within four weeks from the date of receipt of a certified copy of this order by the High Court. ,,,,

He shall also be entitled to all the consequential benefits, like continuity in service, seniority, further promotions, arrears of pay and all other service",,,,

benefits.,,,,

v)Simple interest @ 8% per annum on the arrears is also allowed.,,,,

A copy of the judgment be communicated to Registrar General forthwith for compliance.,,,,