

*Before Ritu Bahri, J.*

**SUMEET SOFAT—Petitioner**

*versus*

**STATE OF PUNJAB AND ANOTHER—Respondents**

**CRMM 20779 of 2012**

August 14, 2013

*Code of Criminal Procedure, 1973 - S. 482 - Indian Penal Code, 1860 - S. 182 & 211 - Petitioner filed complaint to SSP - Inquiry conducted by SP and no truth found in allegations - DCP initiated kalandra u/s 182, 211 IPC - Petitioner sought quashing of Kalandra contending DCP could not initiate kalandra as complaint filed to SSP and inquiry conducted by SP - Petition allowed holding only Superintendent of police competent to register Kalandra.*

*Held*, that in Malkiat Singh Vs. State of Haryana, 1999 (2) RCR (Criminal) 10, this Court had examined a case wherein, on a complaint made to the Superintendent of Police, the allegations were found false and proceedings under Section 182 Cr.P.C., were initiated by the SIO concerned. While quashing those proceedings, this Court had observed that it was the Superintendent of Police, who was competent to register the Kalandra under Section 182 Cr.P.C.

(Para 8)

G.S. Sandhu, Advocate, *for the petitioner(s)*.

Amritpal Singh Gill, AAG, Punjab.

**RITU BAHRI, J.**

(1) This petition under Section 482 Cr.P.C., is for quashing of Kalandra No.15 dated 20.10.2009, under Sections 182, 211 IPC (Annexure P-3), presented by respondent No.2-Deputy Commissioner of Police, Ludhiana, before the Illaqa Magistrate.

(2) The petitioner moved an application/complaint dated 25.05.2009 before the Senior Superintendent of Police, Ludhiana (City) against Ramesh Kumar Pashan, Abhinav Pashan, dinayak Pashan and two other unidentified

persons, stating therein that there was dispute between him and the Pashan family since the last four years and cases were pending in the Courts. They wanted to kill him and his family members. Many times, threats were also given to him in that regard. On 23.05.2009, the members of Pashan family along with some unidentified persons had attacked him with iron rods and kirpans. They also put red chilli powder in his eyes. During this incident, he suffered multiple injuries, including hairline fracture in left wrist. An attempt to kidnap the petitioner was also made. As such, he sought registration of an FIR against the aforesaid persons. Petitioner also moved a private complaint before the Chief Judicial Magistrate, Ludhiana, on 01.05.2010, in which notice was issued to the SHO concerned and the said complaint is still pending in the Court. The petitioner also filed CrI. Misc. No.M-6743 of 2010 before this Court for issuance of directions to the State as well as DGP, Punjab, to take action against the official respondents for failing to register a case against the accused and their unknown accomplices. The said petition was dismissed by this Court vide order dated 29.11.2011 with liberty to the petitioner to avail alternative remedy before the Magistrate. In the meantime, the petitioner learnt that Kalandara under Sections 182 and 211 IPC has been registered against him by respondent No.2-Deputy Commissioner of Police, Ludhiana.

(3) The precise grievance of the petitioner is that without registering the case and without investigating the matter as per law, the Kalandra could not be instituted against him and continuation of such proceedings are contrary to the provisions of Section 154 Cr.P.C.

(4) Or notice, reply has been filed by the respondents, stating that after receiving the complaint from the petitioner, it was marked to SP (City-1), Ludhiana. He conducted a detailed enquiry and as per his report, no such occurrence took place, as alleged by the complainant-petitioner. There was no truth in the allegations levelled by the complainant. On the basis of this detailed enquiry report dated 24.06.2009, the complaint filed by the petitioner was ordered to be filed on 26.06.2009. It has been further stated that the petitioner is a chronic litigant and habitual offender. Hence, Kalandra under Sections 182 and 211 IPC for giving false information to the police was rightly prepared and presented before the Court.

(5) Initially, a gunman was provided to the petitioner for his protection, but subsequently due to administrative reasons, he was withdrawn.

(6) The short point for consideration before this Court is, "whether on a complaint made by the petitioner to the Senior Superintendent of Police, Ludhiana and thereafter, an enquiry having been conducted by SP City-1, Ludhiana, the Deputy Commissioner of Police, could institute a Kalandra under Sections 182 and 211 IPC?"

(7) The factual position, which cannot be disputed, is that initially a complaint (Annexure P-2) was made by the petitioner to the DGP, Punjab, DIG, Ludhiana Range, Ludhiana and Senior Superintendent of Police, Ludhiana. Pursuant to the said complaint, an enquiry was marked to the Superintendent of Police City-1, Ludhiana, who conducted the enquiry and as per his report, no occurrence took place, as alleged by the complainant-petitioner. The said report was given after verifying the call details of the parties. The said report was approved by the Senior Superintendent of Police on 26.06.2009. Thereafter, Deputy Commissioner of Police, Ludhiana, decided to take action under Sections 182 and 211 IPC against Dr. Sumit Sofat-petitioner.

(8) In *Malkiat Singh versus State of Haryana (1)*, this Court had examined a case wherein, on a complaint made to the Superintendent of Police, the allegations were found false and proceedings under Section 182 Cr.P.C., were initiated by the SHO concerned. While quashing those proceedings, this Court had observed that it was the Superintendent of Police, who was competent to register the Kalandra under Section 182 Cr.P.C.

(9) The judgment delivered in *Malkiat Singh's* case (supra) was followed by this Court in *Randhir versus State of Haryana and others (2)* and *Varinder Mohan versus State of Punjab and another (3)*.

(10) In the present case, on a complaint filed by the petitioner, the enquiry was marked to the Superintendent of Police City-1, Ludhiana, who conducted a detailed enquiry and found that no such occurrence took place.

---

(1) 1999 (2) RCR (Crl.) 10

(2) 2003 (4) RCR (Crl.) 651

(3) 2009 (3) RCR (Crl.) 100

as alleged by the complainant-petitioner. Ultimately, the complaint made by the petitioner was ordered to be filed on 26.06.2009.

(11) In the light of the consistent views taken by Co-ordinate Benches of this Court in the aforesaid judgments, this Court is of the opinion that since the enquiry in this case was conducted by the Superintendent of Police City-1, Ludhiana, the initiation of Kalandra under Section 182 and 211 IPC by the Deputy Commissioner of Police, Ludhiana, is without jurisdiction.

(12) Resultantly, Kalandra No.15 dated 20.10.2009, under Sections 182 and 211 IPC (Annexure P-3) initiated by respondent No.2-Deputy Commissioner of Police, Ludhiana, is quashed with all consequential proceedings arising therefrom qua the petitioner.

The petition stands allowed.

---

*A. Jain*