

the Estate Officer is excessive and he is still adamant in not paying the ground rent for the years 1977—81 due to him to the Chandigarh Administration. This attitude of the petitioner and his dilly-dallying tactics not to pay the ground rent due to him justifies the imposition of 100 per cent penalty by the Estate Officer and its recovery under Section 8 of the Act as arrears of the land revenue.

(15) In view of our discussion above, this petition is dismissed with costs which we determine as Rs. 5,000.

(16) We cannot refrain ourselves to observe that the petitioner has flouted the valid and legal orders of the Chandigarh Administration with impunity. It seems that he wielded influence with the officers of that time and with their help, very conveniently did not pay the ground rent of the site due from him to the Administration. The petitioner very conveniently constructed the cinema building at his own leisure and took about 3 years to complete the building when under the rules, he was required to complete the building within one year from the date of taking of the possession of the cinema site by him. Again, he very conveniently secured the licence to run the cinema on 10th July, 1980 and even started running the same with the help of the officers of the Administration even when the cinema site was under resumption till 24th December, 1981 and reaped all the benefits therefrom.

(17) We hope that the authorities shall be careful in future to take appropriate and immediate action in such matters so that confidence of the common man is restored in the Executive and the public money is saved from being looted by the unscrupulous elements in the society.

S.C.K.

Before Hon'ble P. K. Jain, J.

SMT. GURMIT,—Petitioner.

versus

STATE OF PUNJAB & OTHERS,—Respondents.

Cr. M. No. 3356/M of 1995

24th November, 1995

Code of Criminal Procedure, 1973—Ss. 154, 156 & 157—Information disclosing commission of offence—Such information conveyed to the Police Officer—Registration of a case—Mandatory—Only after the registration of case investigation can be started.

Held, that any information disclosing a cognizable offence if conveyed to officer in charge of a police station satisfying the requirement of Section 154(1) of the Code, the said police officer cannot refuse to register a case on the ground that the information is not reliable or credible. On the other hand, he is bound to enter the substance thereof in the prescribed form, i.e. to say, to register a case on the basis of such information. It is only after the registration of a case as envisaged by Section 154 of the Code that the police officer has been given the option by Section 157 of the Code to make up his mind as to whether he would or would not enter on an investigation.

(Para 24)

G. S. Grewal, Sr. Advocate with T. P. S. Mann, Advocate, for the *Petitioner*.

I. P. S. Sidhu, A.A.G., for the *Respondent State*.

D. S. Chimni and Jasbir Singh, Advocates, for respondents 4 to 15.

JUDGMENT

P. K. Jain, J.

(1) This petition has been filed under Section 482 of the Code of Criminal Procedure (hereinafter to be referred to as 'the Code') for directing respondents Nos. 2 and 3 to register a criminal case against respondents Nos. 4 to 15.

(2) According to the averments in the petition, Sharif Kumar—the husband of the petitioner and his father late Shri Chamba Ram were landless Harijans of village Rambianwal within the jurisdiction of Police Station, Sadar Jalandhar. In pursuance of a scheme announced by the Government two plots bearing Nos. 56 and 76 adjacent to each other, each measuring 5 Marlas, situated in Kaypee Nagar, village Bambianwal, were allotted to said Sharif Kumar and late Shri Chamba Ram, respectively. On the death of Chamba Ram and his wife, plot No. 76 was also inherited by Sharif Kumar being the only son of his parents. The petitioner along with her family members has been residing in the area of those plots since then.

(3) In the elections held to the village Gram Panchayat, Sharif Kumar was one of the candidates for the office of Sarpanch and he was opposed and defeated by Madan Lal, respondent No. 6. Said Shri Madan Lal was supported by respondents Nos. 4, 10, 11, 12, 13 and 15, respectively. Respondents Nos. 5, 7, 8, 9 and 14 were elected as Panches. It is alleged that all these respondents Nos. 4 to 15 formed one group and all of them had been nursing a grudge against

Sharif Kumar on account of latter's opposing their group in the Panchayat elections. It is then alleged that even in spite of the demarcation of the said plots Nos. 56 and 76 made in the presence of Shri Munshi Khan, the then Sarpanch of the village, yet respondents Nos. 4 to 15, after coming into power, started threatening to dispossess the husband of the petitioner from the said plots. On 7th January, 1994, Madan Lal respondent No. 6 had made an attempt to dispossess Sharif Kumar but his attempt was averted at the intervention of the respectables of the village. Under the circumstances, Sharif Kumar filed a civil suit for a decree of permanent injunction against Gram Panchayat from interfering in his peaceful possession over the plots Nos. 56 and 76, wherein on an application under Order 39 Rules 1 and 2 read with section 151 of the C.P.C., the Court of Sub Judge I Class, Jalandhar, by order dated 27th August, 1994, had restrained the defendant-Gram Panchayat from dispossessing Sharif Kumar from the plots Nos. 56 and 76 except in due course of laws. It is then alleged that respondents Nos. 4 to 15 became more aggressive and again tried to interfere with the peaceful possession of the family of the petitioner whereupon an application under Order XXXIX Rule 2 (A) of the C.P.C. for initiation of contempt proceedings was filed.

(4) It is then alleged that on 14th January, 1995 at about 12/12.30 p.m., respondents Nos. 4 to 15 with a common object of all of them to dispossess the family of the petitioner from the said plots committed criminal trespass into the house of the petitioner and resistance was offered by the petitioner and other family members including her husband. It is further stated that at that time Gulzari Lal, respondent No. 10, was holding a plastic can containing kerosene whereas the remaining respondents were accompanying him ; that Karnail Singh raised a *lalkara* exhorting his companions to put the house on fire, whereupon Gulzari Lal poured kerosene on the luggage and house-hold articles lying inside the room; that Karnail Singh took out a match-box from his pocket and set on fire the goods and the house in order to destroy them and kill the family members of the petitioner. It is also alleged that Madan Lal respondent who was armed with a *kirpan* gave two blows with the same which hit the petitioner on her right fore-arm and left fore-arm. Bhupinder Singh respondent was armed with a *gandasi* with which he gave a blow to the petitioner and that other respondents also gave injuries to the petitioner. An attempt was also made by the respondents to throw the petitioner inside the fire. Thereafter Pritpal Singh respondent ploughed the open space with the tractor. It is also alleged that after setting on fire the goods and the house, respondents Nos. 4 to 15, with common object forcibly took away unburnt goods of the

petitioner in a tractor-trolley. Hue and cry raised by the petitioner attracted Daulat Ram, Ex-Sarpanch, Roop Lal, Gopal Chand, Mohan Singh, Smt. Mohindo and Smt. Maya to the spot who rescued the petitioner and her children from the respondents. The petitioner was medico-legally examined in Civil Hospital, Jalandhar, on 14th January, 1995 at 4.05 p.m. The doctor noticed seven injuries. Three injuries were the result of sharp weapon, whereas four injuries were the result of a blunt weapon. After x-ray examination of the right fore-arm of the petitioner, injury No. 1, caused by sharp-edged weapon was declared to be grievous in nature.

(5) It is further alleged that the matter was reported to the Police Station, Sadar Jalandhar, but the respondents Nos. 4 to 15 are influential persons having links with high-ups and as such no case has been registered against them by the Police, although the allegations made out commission of cognizable offences. A written complaint against respondents Nos. 4 to 15 was presented to the Deputy Inspector General of Police, Jalandhar Range, Jalandhar Cantt, with copies to the Inspector General of Police as well as respondent No. 2, but till date no action has been taken on the complaint (Annexure P.3). In these circumstances the petitioner has been forced to approach this Court by filing the present petition.

(6) Notice of motion was given to the respondents.

(7) In a separate reply filed on behalf of respondents Nos. 2 and 3, it is stated that the allegations levelled by the petitioner against respondents Nos. 4 to 15 were verified by the Police and were found false; that medico-legal report dated 14th January, 1995 in respect of petitioner was received in Police Station, Sadar Jalandhar, from the Civil Hospital, Jalandhar; that S.I. Santokh Singh went to the hospital to record the statement of the petitioner but she was not fit to make the statement on 14 and 15th January, 1995 as per report of the doctor, and as such her statement was recorded on 16th January, 1995 when the doctor declared her fit to make the statement. It is further stated that since the statement made by the petitioner against respondents Nos. 4 to 15 was suspected to be false and as such Daily Dairy report No. 26 dated 16th January, 1995 under Punjab Police Rule 24.4 was recorded. It is further stated that the facts mentioned in the statement of the petitioner were verified at the spot by the Station House Officer, Police Station, Sadar Jalandhar, who recorded the statements of the respectables and also made secret enquiry which revealed that there was no truth in the statement of the petitioner and no such occurrence had taken place and that during the enquiry it was also found

that the injuries on the person of the petitioner were self-suffered which fact was supported by the opinion of the doctor. It is then stated that the petitioner had knowingly given false information to the police with intent to cause the police to use its lawful power to the injury of others, a complaint under section 182 of the I.P.C. was filed in Court on 18th April, 1995 which is pending in the Court of Additional Chief Judicial Magistrate, Jalandhar.

(8) In the reply filed on behalf of respondents Nos. 4 to 15, it is stated that no plot was ever allotted either to Sharif Kumar or his father, as alleged, nor possession of such plot was ever given to them. The allegation of the petitioner that these respondents had made any attempt to dispossess her have been denied. The allegations regarding criminal trespass or the pouring of kerosene on the domestic goods lying inside the house of the petitioner or putting the same to fire have been denied. The allegation that any injuries were caused to the petitioner by Madan Lal or Bhupinder respondents have been denied. It is further stated that no such occurrence, as alleged, ever took place; that the allegations are baseless; that the police recorded a report in the Daily Diary on the statement of the petitioner which was found to be false; and that there is no substance in the prayer of the petitioner.

(9) I have heard the learned counsel for the parties.

(10) Shri G. S. Grewal, Sr. Advocate, learned counsel for the petitioner, has argued that the allegations levelled by the petitioner were supported by documents referred to in the petition and the same disclose the commission of cognizable offences and as such the S.H.O., Police Station, Sadar Jalandhar, was bound to register F.I.R. under section 154 of the Code. It has been further argued that the registration of the FIR under the said provision could not have been refused for the reason that the information being given was not worthy of belief or credible. Reliance has been placed upon a well-known judgment of the apex Court rendered in *State of Haryana and others v. Ch. Bhajan Lal and others* (1).

(11) On the other hand Shri D. S. Chimni, Advocate, along with Shri Jasbir Singh, Advocate, counsel for respondents Nos. 4 to 15, has argued that once the information given by the petitioner was made the subject-matter of a report recorded in Daily Diary, which on verification was found to be false, the present petition is not

maintainable. It has been argued by the learned counsel that the inherent powers under section 482 of the Code can be exercised if the same is necessary for the ends of justice.

(12) Shri I. P. S. Sidhu, learned A.A.G., Punjab, has argued that if the information relating to the commission of alleged cognizable offence is given and the Officer-in-charge of the Police Station has reason to suspect that the alleged offence has not been committed, he is required to record the substance of the information the Station Diary, his reasons for such suspicion and the fact that he would not investigate the case or cause it to be investigated as provided by Rule 24.4 of the Punjab Police Rules, 1934.

(13) Before discussing which of the submissions ought to prevail, it will be just and proper to deal with the legal principles dealing with the registration of cognizable offences.

(14) Section 154(1) of the Code is the relevant provision regarding the registration of a cognizable offence and the same reads as under :—

“(1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.”

(15) Section 156 of the Code gives a statutory right to the officer Incharge of the Police Station to investigate the circumstances of an alleged cognizable offence without requiring any authority from a Magistrate.

(16) Section 157 of the Code lays down the procedure for investigation. Proviso (b) to sub-section (1) of Section 157 of the Code reads as under :—

“(b) if it appears to the officer-in-charge of a police station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.”

(17) Then sub-section (2) of Section 157 of the Code provides as under :—

“(2) In each of the cases mentioned in clauses (a) and (b) of the proviso to sub-section (1), the officer-in-charge of the police station shall state in his report his reasons for not fully complying with the requirements of that sub-section and, in the case mentioned in clause (b) of the said proviso, the officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the State Government, the fact that he will not investigate the case or cause it to be investigated.”

(18) From a conjoint reading of Section 154 and 157, as reproduced above, it is evident that when information regarding the commission of a cognizable offence is given to the officer-in-charge of a Police Station, he is duty bound to record that information in the shape of FIR in a prescribed book to be kept for the said purpose under section 154 of the Code. At this stage he has no power to say that the information, being given, is not credible and as such he will not record the FIR. It is only after the FIR is recorded under section 154 of the Code that he can make up his mind as to whether there is sufficient ground for entering on an investigation as provided by Section 157 of the Code. If it appears to the said officer that there is no sufficient ground for entering on an investigation, he shall not investigation the case and would report the matter to the Magistrate and shall also forthwith notify to the informant in such manner as may be prescribed by the State Government.

(19) The question has been examined in depth by their lordships of the Supreme Court in *State of Haryana and others v. Ch. Bhajan Lal and others* (2). After making a reference to the relevant provisions contained in the Code, their lordships were pleased to lay down the following Law :—

“At the stage of registration of a crime or a case on the basis of the information disclosing a cognizable offence in compliance with the mandate of Section 154(1) of the Code, the concerned police officer cannot embark upon an enquiry as to whether the information, laid by the informant is reliable and genuine or otherwise and refuse to

register a case on the ground that the information is not reliable or credible. On the other hand, the officer-in-charge of a police station is statutorily obliged to register a case and then to proceed with the investigation if he has reason to suspect the commission of an offence which he is empowered under Section 156 of the Code to investigate, subject to the proviso to Section 157. (As we have proposed to make a detailed discussion about the power of a police officer in the field of investigation of a cognizable offence within the ambit of Sections 156 and 157 of the Code in the ensuing part of this judgment, we do not propose to deal with those sections in extenso in the present context.) In case, an officer-in-charge of a police station refuses to exercise the jurisdiction vested on him and to register a case on the information of a cognizable offence, reported and thereby violates the statutory duty cast upon him, the person aggrieved by such refusal can send the substance of the information in writing and by post to the Superintendent of Police concerned who if satisfied that the information forwarded to him discloses a cognizable offence, should either investigate the case himself or direct an investigation to be made by any police officer subordinate to him in the manner provided by sub-section (3) of Section 154 of the Code."

(20) Their lordships were alive to the situation if the officer-in-charge of a police station can refuse to register the crime on the basis of the information disclosing a cognizable offence on the ground that the information being given was not credible. While dealing with this aspect in para 31 of the judgment their lordships made the following observation :—

"Be it noted that in Section 154(1) of the Code, the legislature in its collective wisdom has carefully and cautiously used the expression "information" without qualifying the same as in Section 41(1) (a) or (g) of the Code wherein the expressions, "reasonable complaint" and "credible information" are used. Evidently, the non-qualification of the word "information" in Section 154(1) unlike in Section 41(1) (a) and (g) of the Code may be for the reason that the police officer should not refuse to record an information relating to the commission of a cognizable offence and to register a case thereon on the ground that he is not satisfied with the reasonableness or credibility of

the information. In other words, 'reasonableness' or 'credibility' of the said information is not a condition precedent for registration of a case. A comparison of the present section 154 with those of the earlier Codes will indicate that the legislature had purposely though it fit to employ only the word "information" without qualifying the said word."

(21) In conclusion, their lordships held : It is, therefore, manifestly clear that if any information disclosing a cognizable offence is laid before an officer-in-charge of a police station satisfying the requirements of Section 154 (1) of the Code, the said police officer has no other option except to enter the substance thereof in the prescribed form, that is to say, to register a case on the basis of such information.

(22) Thus, it is clear that the condition which is *sine qua non* for recording a first information report is that there must be an information and that information must disclose a cognizable offence.

(23) It is correct that Rule 24.4 of the Punjab Police Rules, 1934, does support the contention of the learned A.A.G., Punjab, whereby it has been contended that the Officer-in-charge of the Police Station was not bound to record the FIR on the information given by the petitioner and instead was well within his powers to enter the substance of the information the Station Diary. The said Rule reads as under :—

"24.4 (1) If the information or other intelligence relating to the alleged commission of a cognizable offence, is such that an officer in charge of a police station has reason to suspect that the alleged offence has not been committed, he shall enter the substance of the information or intelligence in the station diary and shall record his reasons for suspecting that the alleged offence has not been committed and shall also notify to the informant, if any, the fact that he will not investigate the case or cause it to be investigated."

This rule was enacted in the year 1934 and has lost its statutory force in view of the enactment of the Code of Criminal Procedure 1973, and the provisions of Section 154 of the Code having been interpreted by the apex Court, as stated above. It has been specifically made clear by their lordships that the legislature had purposely thought it fit to employ only the word "information" without qualifying the said word with the prefix "reasonable" or "credible".

(24) The legal position as emerges from the above discussion is that any information disclosing a cognizable offence if conveyed to officer-in-charge of a police station satisfying the requirement of section 154(1) of the Code, the said police officer cannot refuse to register a case on the ground that the information is not reliable or credible. On the other hand, he is bound to enter the substance thereof in the prescribed form, i.e. to say, to register a case on the basis of such information. It is only after the registration of a case as envisaged by Section 154 of the Code that the said police officer has been given the option by Section 157 of the Code to make up his mind as to whether he would or would not enter on an investigation.

(25) In the present case, the case of respondents Nos. 1 to 3 is that the information given by the petitioner was verified and was found to be false; that no such occurrence had taken place and the alleged injuries on the person of the petitioner were self-inflicted. From a bare perusal of the record available before this Court, it is evident that the petitioner was admitted to the hospital on 14th January, 1995 having injuries on her person and was unfit for making statement continuously for two days i.e. 14th January, 1995 and 15th January, 1995. Some of the injuries could be inflicted by a sharp edged weapon. One of the injuries was found to be grievous. It is not understandable as to on what grounds the S.H.O., Police Station, Sadar Jalandhar, has concluded that the injuries on the person of the petitioner were self-inflicted. Further the petitioner has annexed a copy of the plaint in the suit filed by her husband Sharif Kumar against the Gram Panchayat regarding the plots Nos. 56 and 76, along with a copy of an order passed by the Subordinate Judge, Jalandhar, whereby defendant Gram Panchayat has been restrained from dispossessing Sharif Kumar from plots Nos. 56 and 76 except in due course of law during the pendency of the suit. The allegations described in the present petition and also as contained in her complaint (Annexure P.3) addressed to various authorities do go to disclose the commission of cognizable offences which *prima facie* appear to be supported even by some documents. The alleged enquiry made by S.H.O., Police Station, Sadar Jalandhar, shows that all is not fair and the complaint of the petitioner has been buried in the Daily Diary of the Police Station, the petitioner being a Harijan, belonging to a weaker section of the Society. Although the investigation of a cognizable offence is the field exclusively reserved for the police officer whose powers in that field are unfettered, but if a police officer transgresses the circumscribed limits and exercises his investigatory powers improperly and illegally thereby causing serious prejudice to the informant or other

persons, then the Court on being approached by the person aggrieved for the redress of any grievance, has to consider the nature and extent of the breach and pass appropriate orders as may be called for without leaving the citizens to the mercy of the police echelons.

(26) It is not desirable for this Court to express any opinion on merits of the allegations or the counter allegations made by the parties before me in their respective pleadings. Suffice it to say that the petitioner has met with a raw deal at the hands of respondent No. 3, i.e. the S.H.O., Police Station, Sadar Jalandhar, who did not proceed in accordance with law laid down in Section 154 of the Code. Further, there are objectionable features and infirmities in the so-called enquiry alleged to have been made by him which have forced the petitioner to approach this Court.

(27) For the reasons mentioned above, this petition is allowed. A direction is issued to the Senior Superintendent of Police, Jalandhar, respondent No. 2, to get a case registered on the basis of the allegations contained in the present petition as well as the complaint (Annexure P.3). After the case is registered, the investigation shall be carried out by an officer not below the rank of a Superintendent of Police.

(28) A copy of this order along with copies of the petition as well as complaint (Annexure P.3) be sent to the Senior Superintendent of Police, Jalandhar, for immediate necessary compliance.

S.C.K.