
(1999) 12 P&H CK 0082

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 15510-M of 1999

Kalia Prem Rattan

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 09-12-1999

Acts Referred:

Citation : (2000) 1 RCR(Criminal) 769

Hon'ble Judges : T.H.B.Chalapathi, J

Advocate : P.P.S. Duggal, Advocates for appearing Parties

Judgement

T.H.B. Chalapathi, J.

1. This application is filed under Section 482 Cr.P.C. to direct the Station House Officer, Police Station Ghall Khurd to register a case for the offences under Sections 307 and 452 read with Section 34 I.P.C. against Vijay Kumar etc.

2. According to the petitioner, he has been running a private school namely Kalia Academy at Talwandi Bhai. On 20.6.1998 at 8.15 p.m. Vijay Kumar, Dayal Singh and others armed with weapons came to the house of the petitioner with an intention to kill him. They each fired shot at the petitioner. The petitioner also in self defence opened fire with his own gun. The Police registered a case against the petitioner on the complaint given by the other party in F.I.R. No. 64 dated 21.6.1998. The petitioner's version was not recorded by the Police though he gave a complaint.

3. Thus, it is clear that there is version and crossversion in regard to the incident that has taken place on 20.6.1998 and the opposite party has already got a case registered. It is no doubt true as held by the Supreme Court in State of Haryana v. Bhajan Lal, 1991(1) RCR 382 that when an information is lodged with the police disclosing cognizable offence, the Police has a statutory duty to register a case and proceed with the investigation as envisaged under Section 154 of the Code of Criminal Procedure. The case before the Supreme Court was not of version and crossversion. What all the Supreme Court stated is that the case has

to be registered and investigation has to be proceeded with. When in regard to the same incident where there are version and crossversion, it is always not necessary for the Police to register two different cases in regard to the same incident. During the course of inquiry, it is always open to the Police to find out which version is true and who is the aggressor and file the chargesheet against those persons who, according to them, are responsible for committing an offence. In this context it is useful to refer to the decision of the Madras High Court in Thota Ramakrishnayya and others v. The State, AIR 1954 Mad. 442 wherein it has been held as follows :

"This analysis of the position of the accused visavis as a prosecution witness in the counter case under the provisions of the Indian Evidence Act and the Fundamental Rights assured by the Constitution makes it clear that the Police cannot charge both the cross cases and must either find out the truth and charge that version which is true or if they are unable to do so to throw out both the cases or charge one version leaving it open to the aggrieved party to resort to his own remedies."

4. There cannot be any doubt that during the course of investigation, it is the duty of the Investigating Officer to record the version given by the opposite party i.e. complainant also and to proceed with the investigation of the case on the basis of version and crossversion. Investigation does not mean to prosecute the accused person by any means. It is for the determination of truth. So, it is the duty of the Investigating Officer to verify the statement or disclosure of any relevant materials to arrive at a conclusion that the witnesses are telling nothing but truth. When in regard to the same incident, there are two versions one of the complainant party and other by the opposite party, the police have to record the statements of both the parties and on the basis of the material collected by them have to come to the conclusion which party has to be challaned leaving the other party to file a private complaint under Section 190 Cr.P.C.

5. In this view of the matter, I do not find any ground to register a separate case. However, the Investigating Officer is directed to record the statements of the petitioner and his witnesses during the course of investigation in the F.I.R. already registered and on the basis of the investigation the Police shall file a report in the concerned Court of the Magistrate in accordance with provisions of Section 173 Cr.P.C.

8. The petition is, accordingly, disposed of.