
(2010) 01 P&H CK 0254

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-16912 of 2008

Kulwant Kaur

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 06-01-2010

Acts Referred:

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

Citation : (2010) 01 P&H CK 0254

Hon'ble Judges : Ajai Lamba, J

Bench : Single Bench

Advocate : B.S. Bhalla, for the Appellant; Anter Singh Brar, D.A.G., Punjab for Respondent Nos. 1 and 2 and Mr. G.S. Sidhu, Senior Advo., with Mr. G.S. Benipal, Advocates, for the Respondent

Final Decision : Dismissed

Judgement

Ajai Lamba, J.—This petition has been filed u/s 482 Cr.P.C. for quashing Kalandra for commission of offence u/s 182 IPC, dated 13.3.2008 (Annexure P-7) filed in the Court of Sub Divisional Judicial Magistrate, Jagraon, initiated at the instance of respondent No. 2. i.e. Senior Superintendent of Police, Ludhiana.

2. Short contention of learned counsel for the petitioner is that proceedings u/s 182 IPC have been initiated at the instance of Manjit Inderpal Singh Dhillon (respondent No. 3) who was an accused in the incident relating to the death of Surjit Singh son of Balwant Singh, in case FIR No. 184 dated 19.8.2003, under Sections 302, 201, 420, 34 IPC registered with Police Station, Jagraon.

3. It is the contention of the learned counsel that in view of compromise, Annexure P-2 and affidavit, Annexure P-3 sworn by respondent No. 3, he could not have initiated the proceedings. It has further been argued that the petitioner, in view of Annexure P-2 and P-3, thought that no proceeding u/s 182 IPC shall be initiated and therefore, the cancellation report was accepted by the complainant resulting into passing of Order dated 3.11.2007, Annexure P-5.

4. Learned counsel for the respondent-State has drawn the attention of the Court towards the totality of facts and circumstances. It has been brought out that Kulwant Kaur (petitioner) who is none other but the widow of Surjit Singh (deceased), lodged a complaint making allegations of murder of Surjit Singh. An enquiry was conducted whereupon it was found that Surjit Singh had died on account of cardiac arrest. This fact was known to the petitioner, however, allegations were made that Surjit Singh had been murdered by Surinderjit Kaur, Tejinder Singh, Harwinder Singh and Jagjit Singh.

5. After enquiry by CIA Staff, Jagraon, it was concluded that Surjit Singh died due to natural cause at Jagraon and Kulwant Kaur was present there. Enquiry report dated 10.2.2003 has been placed on record as Annexure R-2. It has further been concluded in the enquiry report that relations between the petitioner and Surinderjit Kaur who had been named as accused, were not cordial.

6. The petitioner, however, filed Criminal Miscellaneous No. 35104-M of 2003 on 6.8.2003 before this Court, praying for directions to the Senior Superintendent of Police, Jagraon, to take action against the accused named in the initial complaint. This Court issued directions to the Senior Superintendent of Police, Jagraon to look into the representation of the petitioner. The petitioner, at that stage also, had concealed the fact that enquiry had already been concluded concluding that cause of death of Surjit Singh was natural.

7. Be that as it may, after disposal of the petition by this Court, Kulwant Kaur moved another application dated 19.8.2003 and introduced two more names in the array of accused namely Manjit Inderpal Singh (respondent No. 3) and Surinder Kaur.

8. FIR No. 184 dated 19.8.2003, under Sections 302, 201, 420, 34 IPC was registered with Police Station, Jagraon, District Ludhiana. The matter was investigated. No incriminating material was found and cancellation report dated 4.1.2004 was presented before the concerned Magistrate on 3.3.2005. Before presentation of the cancellation report, the petitioner swore affidavit dated 7.6.2004 to the effect that FIR was got registered due to some suspicion and the petitioner did not want to initiate any action. The affidavit has been placed on record by the respondent-State as Annexure R-5.

9. Notice of the matter was issued to the petitioner before acceptance of cancellation report, she being the complainant. The petitioner, however, did not put in appearance before the Magistrate.

10. The Magistrate ordered reinvestigation vide Order dated 20.5.2006. The matter was again investigated and again cancellation report dated 16.6.2006 (Annexure R-6) was presented. The complainant, at this stage, appeared and gave statement dated 13.7.2006 (Annexure R-7) clearly stating that she got registered the FIR; the police had presented a cancellation report; she agrees with the same and has no objection if the report is accepted. Accordingly, the

cancellation report was accepted by the Sub Divisional Judicial Magistrate on 3.11.2007.

11. I have considered the issue. The provisions of Section 182 IPC are required to be noticed:-

182. False information, with intent to cause public servant to use his lawful power to the injury of another person. - Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant-

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

12. The procedure for proceeding in the context of offence u/s 182 IPC has been laid down in Section 195 Cr.P.C. and relevant portion thereof reads 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, or 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;

13. The facts when considered indicate that the petitioner was the wife of deceased Surjit Singh. On her application, enquiry was conducted. It was concluded that Surjit Singh died of natural cause viz. cardiac arrest.

14. As per the case of the respondent-State, the petitioner all through was aware of the cause of death as also the enquiry proceedings and yet filed a petition before this Court for registration of FIR against four persons initially. The petitioner, at this juncture, gave yet another complaint/application to a public servant viz. the police official indicating culpability of two more accused including respondent No. 3. On the second statement of the petitioner, FIR No. 184 dated 19.8.2003, under Sections 302, 201, 420, 34 IPC with Police Station, Jagraon, District Ludhiana, was lodged and investigated.

15. On investigation and reinvestigation, the investigating agency filed cancellation report. The petitioner gave a statement before the Magistrate to the effect that cancellation report be accepted.

16. The conduct of the petitioner prima facie indicates that she gave information to a public servant knowing it to be false. On initiation of proceedings at the instance of the petitioner, the entire investigation machinery had to conduct repeated enquiries/investigations.

17. The proceedings, as per the procedure laid down u/s 195 Cr.P.C. as extracted above, are to be initiated on a complaint in writing of the public servant concerned or some other public servant to whom he is administratively subordinate. Respondent No. 3, in view of legal provisions, is not even competent to initiate proceedings for commission of offence u/s 182 IPC. Merely because respondent No. 3 filed an application pointing out commission of offence u/s 182 IPC, would not make the Kalandra liable to quashing. The proceedings at the instance of respondent No. 3 for commission of offence u/s 182 IPC are not even maintainable. In such circumstances, the argument of learned counsel for the petitioner does not find favour with the Court. Any document executed between the petitioner and respondent No. 3 cannot possibly bar initiation of proceedings at the instance of a public servant.

18. An offence u/s 182 IPC read with the provisions of Section 195 Cr.P.C. (which lays down the procedure) is a matter between the "public servant" and the "offender", who has committed the offence. Any writing at the instance of a private person cannot debar initiation of such proceedings.

19. The tendency to file false complaints so as to settle personal vendetta is required to be curbed. While FIR is required to be lodged on a complaint showing prima facie commission of offence, surely a person cannot be encouraged to approach a public servant by way of giving any information that he knows or believes to be false intending thereby to cause such public servant to use the lawful power of the public servant to the injury or annoyance of any person.

20. The allegations against the petitioner are that she was in the know of the fact that Surjit Singh had died of natural causes and yet she approached the police agencies to initiate criminal proceedings against as many as six persons. On so doing, FIR was lodged and investigation was carried, surely to the annoyance of the persons accused in the complaint filed by the petitioner. This matter having come to the notice of the public servant/police officials, though at the instance of respondent No. 3, Kalandra for commission of offence u/s 182 IPC has been filed. No ground for quashing the same is made out while exercising jurisdiction u/s 482 Cr.P.C.

The petition is dismissed.

21. In view of the delay already caused, the Magistrate concerned is directed to proceed with the matter expeditiously.

22. The observations made in the body of the judgment in regard to facts are only so as to adjudicate on the limited issue and are not to be construed as observations/findings on facts of the case.