

(2009) 12 P&H CK 0068
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 18373 of 2009

Sat Paul Kagra

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 01-12-2009

Acts Referred:

Constitution of India, 1950 — Article 14
Judges (Protection) Act, 1985 — Section 3
Penal Code, 1860 (IPC) — Section 219

Citation : (2010) 1 RCR(Civil) 100 : (2010) 1 SCT 302

Hon'ble Judges : M.M.Kumar, J and Jaswant Singh, J

Advocate : Mr. S.P. Soi, Advocate., Advocates for appearing Parties

Judgement

M.M.Kumar, J.

1 The instant petition filed under Article 226 of the Constitution prays for declaring the Judges (Protection) Act, 1985 (for brevity "the Act") as ultra vires of the Constitution. It would be interesting to notice the prayer made by the petitioner in extenso which reads thus:

"Civil Writ Petition under Article 226/227 of the Constitution of India for issuance of an appropriate writ, direction or orders in the nature of certiorari to quash the Judges Protection Act, 1985 (Annex. P.I) as the same is ultravirus of the Constitution of India, void abinitio, against the public policy, against the settled principle of law as contained in Section 219 of the IPC."

2 The petitioner is a practicing Advocate of New Courts, Jalandhar. He filed a complaint on 27.10.2009 in the Court of Chief Judicial Magistrate. Jalandhar under Section 219 IPC levelling allegations against the District Judge. The Chief Judicial Magistrate did not entertain the complaint holding that it was not maintainable in view Section 3 of the Act (P. 1). Against the order dated 27.10.2009 passed by the Chief Judicial Magistrate a separate petition under Section 482 Cr.P.C. has been filed. However, the instant petition has been filed seeking a declaration that the Act may also be declared unconstitutional.

According to Section 3 of the Act an additional protection to Judges have been extended for any act committed or anything done by him in the course of acting or purporting to act in the discharge of his official/judicial duty or functions.

3 We repeatedly asked Mr. S:P. Soi, learned counsel for the petitioner to disclose the material in support of the complaint dated 17.4.2007 and what is the influence wielded by the opposite party in the litigation. Mr. Soi could not disclose any fact. The petitioner appears to be aggrieved by the judicial order passed in the cases between the petitioner and one Shri C.K. Bali. We do not know what object the petitioner wishes to achieve by levelling irresponsible, baseless and frivolous allegations. If any order on judicial side has been passed it is always open to agitate the matter in appeal or avail appropriate remedy in accordance with law. He has taken that recourse by challenging the order dated 27.10.2009 by initiating proceedings under Section 482 Cr.P.C. The conduct of the petitioner is contumacious. If the petitioner is aggrieved by any order passed on the judicial side he should have gone in appeal. It appears that in some cases appeals have also been preferred but still the petitioner has preferred to adopt this peculiar course which is absolutely illadvised. However, there is nothing in the Act which may be said to be violative of Article 14 of the Constitution or otherwise ultra vires or illegal nor any such argument has been raised at the time of hearing. No worthwhile contention has been addressed. In fact at the hearing nothing has been argued challenging constitutional validity of the Act. Therefore, the petition is dismissed and on account of frivolous claim made by the petitioner in the instant petition, we saddle him with costs of Rs. 20,000/, which shall be deposited by him with the Member Secretary, Mediation and Conciliation Centre, Punjab and Haryana High Court. Chandigarh within a period of two weeks A copy of this order be sent to the Member Secretary, Mediation and conciliation Centre. Punjab and Haryana High Court. Chandigarh. If no costs are deposited within the prescribed period, the file be listed for appropriate orders. Order accordingly.