
(1992) 02 P&H CK 0097

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 867-M of 1991

Sis Ram and ors.

APPELLANT

Vs

State of Haryana and anr.

RESPONDENT

Date of Decision : 11-02-1992

Acts Referred:

Citation : (1992) 1 AICLR 627 : (1992) 1 RCR(Criminal) 631

Hon'ble Judges : J.B.Garg, J

Advocate : Anil Rathee, H.S. Hooda, Suvir Dewan, I.S. Balhara, Advocates for appearing Parties

Judgement

J.B. Garg, J.

1. Mewa Singh son of Mange Ram instituted a complaint under Section 211 read with Section 500 of the Indian Penal Code alleging, that Sis Ram and 10 others have formed a group with the view to humiliate him. A complaint was made; to the Collector, Sonapat, alleging that the complainant who is son of the Lambardar had been going to the houses of the villagers with the object of molesting the women on the pretext of collecting, revenue and that the father of the complainant who is a Lambardar is mean and a liar. The Judicial Magistrate Gohana made over this complainant to the police for investigation under Section 156 (3) of the Code of Criminal Procedure. After the receipt of the report from the Station House Officer the Judicial Magistrate ordered registration of a case and the police implemented this order and FIR No. 199 was registered on 23121986. Thereafter, a report under section 173 Cr.P.C. was drawn up and a challan presented. Not only that after hearing the parties a charge has also been framed for offences under section 500 of the Indian Penal Code read with Section 211 of the Indian Penal Code on 22121990.

2. The present petition has been moved under Section 482 of the Code of Criminal Procedure alleging that on the receipt of the report from the police dated 15101986, the Judicial Magistrate could proceed under Section 203 or Section 204 of the Code of Criminal Procedure and could even issue summon or

warrants against the accused but he had no jurisdiction to send the complaint to the Station House Officer for registration of a case.

3. The learned counsel for the petitioner has referred to *Jug Lal v. State of Haryana*, 1973 77 Supplementary CLR 645, wherein it was held that if after receipt of the report from the police there was a sufficient ground for proceeding then the Judicial Magistrate could have issued summonses or warrants under Section 2 A of the Code of Criminal Procedure. The reason is that when the Judicial Magistrate had gone into the report of the police by applying his mind he was not expected to send, it again to the police for registration of the case. Here, reliance has also, been placed on *State of Assam v. Abdul Noor and others*, AIR 1970 SC 1365 wherein, it was observed that if after cognizance had been taken the Magistrate wants any investigation, it will be under Section 202 of the Criminal Procedure Code. This would go to show that in the complaint case after receipt of the report of the police, if it was supporting the allegations on a complaint the Judicial Magistrate was expected to record the statement and evidence of the complainant and not that he, was expected to send it back to the Station House Officer of the police Station for registration of a case and that too when both the offences mentioned above, were non cognizable. The learned counsel for the respondent complainant has referred to *Vijay Kumar & anr. v. Kartar Singh*, 1990(2) Recent Criminal Report 202 : 1990 (2) CLR 596 , where the order of a Magistrate requiring the police to register a case under Section 156 (2) of the Code of Criminal Procedure, was not disturbed. Here, in the case now in hand the facts and circumstances are altogether distinguishable inasmuch as the offences under Sections 211 and 500 of the Indian Penal Code were not cognizable. In *Ahmad Khan and others v. The King Emperor*, 1984 PLR 397, it was held that where a person submitted an application to the Deputy Commissioner it was not a complaint and there being no institution of criminal proceedings, the offence under Section 211 of the Indian Penal Code was not attracted. In *Santosh Kumar and others v. The King*, AIR 1952 Cal. 193, similar proposition of law came for consideration and it was observed that the Magistrate should after receipt of the report decide whether the process should issue or whether the complaint should be dismissed.

4. The conclusion is that framing of the charge for the offences under Section 211 of the Code of Criminal Procedure as well as under Section 500 of the Indian Penal Code as did in this case cannot be sustained at this stage. The present petition moved under Section 482 of the Code of Criminal Procedure is partly accepted and the impugned orders dated 14/10/1988 and dated 22/12/1990 (Annexure P2 & P3) are hereby quashed. However, there is no bar for the learned Magistrate to deal with the complaint made before him, for the offence under Section 500 of the Indian Penal Code by adopting the provisions contained in Chapter XV of the Code of Criminal Procedure. The complainant shall appear in the trial Court at Gohana on 33/1992.

JUDGMENT accordingly.