
(2016) 09 P&H CK 0018
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 19198 of 2016

Subedar Major Janak Raj (Retd.)

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 16-09-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Criminal Procedure Code, 1973 (CrPC) — Section 154, Section 39

Citation : (2017) 1 PLR 436 : (2017) 2 RCRCriminal 35

Hon'ble Judges : Rajesh Bindal and Darshan Singh, JJ.

Bench : Division Bench

Advocate : Pardeep Kumar Rapria, Advocate, for the Petitioner

Final Decision : Disposed Off

Judgement

Darshan Singh, J. - The present writ petition under Article 226/227 of the Constitution of India has been filed for quashing the Haryana Vigilance Manual approved by the State Government vide memo dated 28.07.2004 being ultra vires to Articles 14 and 22 of the Constitution of India and the provisions of the Code of Criminal Procedure, 1973 (for short "Cr.P.C"). Prayer is also for issuance of direction to respondents to register the FIR and to conduct investigation on the written information through series of representations/Legal Notice to the respondents as per the procedure stipulated under the Cr.P.C, for commission of offences under the Prevention of Corruption Act, 1988, Prevention of Money Laundering Act and the Indian Penal Code, 1908 (for short "IPC") along with other consequential reliefs.

2. Learned counsel for the petitioner contended that the petitioner is an ex-servicemen and law abiding citizen. He is bound by the legal duty emanating from the Article 51A (Fundamental Duties) and Section 39 of Cr.P.C. to give information with respect to the commission of offences. He contended that the rampant corruption has taken place in execution of the Panchayat works in his village Kanwala, Tehsil and District Ambala in the construction of streets,

drainage channels, fictitious earth filling etc. He had moved various representations and even got a legal notice served to the respondents for taking the action. He even filed Civil Writ Petition No. 21816 of 2015, which was disposed of vide order dated 12.10.2015 with a direction to respondent no. 2 therein to take a decision on the legal notice dated 08.09.2015 submitted by the petitioner, but no action has been taken under the garb of the provisions of the Haryana Vigilance Manual.

3. He further contended that as per the law laid down by the Hon"ble Apex Court in *Lalita Kumari v. Govt. of U.P.*, AIR 2014 SC 187, registration of First Information Report with respect to the commission of cognisable offence is mandatory. Thus, he contended that the provisions of Haryana Vigilance Manual are ultra vires to Articles 14 and 22 of the Constitution of India and the provisions of Cr.P.C as interpreted by the Hon"ble Apex Court in *Lalita Kumari's* case (supra).

4. We have duly considered the aforesaid contentions.

5. In the present writ petition, though the petitioner has challenged the vires of Haryana Vigilance Manual, but the main grievance raised by the petitioner is his personal grievance that despite his series of representations and even the legal notice, no criminal case has been registered by the respondents against the alleged culprits for the alleged rampant corruption in the construction of streets, drainage channels, earth filling etc. in village Kanwala, Tehsil and District Ambala. To achieve his object and to set into motion the criminal machinery, the petitioner has the alternative remedy under law. The provisions of the Haryana Vigilance Manual are only for the internal functioning of the department. The provisions/procedure laid down in Haryana Vigilance Manual is only to provide guidelines/guidance to the officers/officials of the department. In no way, the Haryana Vigilance Manual can override the statutory provisions of Cr.P.C. Therefore, for the limited grievances raised by the petitioner, we need not go into the vires of the Haryana Vigilance Manual.

6. The petitioner can avail of remedy available to him for the redressal of his grievance. The present writ petition has been filed without availing other legal remedies available to the petitioner. Therefore, we do not find any merit in the contentions raised by learned counsel for the petitioner and the present petition is hereby dismissed with our aforesaid observations.

7. Learned counsel for the petitioner has made an oral request to grant certificate for appeal to Hon"ble the Supreme Court. We have duly considered this plea, but as no substantial question of law is involved in the present writ petition, the said request is hereby declined.