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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-1674 of 2015 (O&M)

Date of Decision: January 29, 2015.

Shrikant Sood

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. V.K. Sandhir, Advocate
for the petitioner.

SABINA, J.

Petitioner has filed this petition challenging the order dated 14.08.2014.

I have heard learned counsel for the petitioner and have gone through the record available on the file carefully.

FIR No.251 dated 26.11.2011 was registered at Police Station City Tarn Taran, under Sections 406, 408, 419, 420, 120-B of Indian Penal Code, 1860 ('IPC' for short). After investigation of the case, cancellation report was submitted by the investigating agency. The Magistrate ordered re-investigation of the case vide order dated 11.05.2012 as the complainant had not accepted the cancellation report. The said order was challenged by the accused in this Court vide Crl. Misc. No.M-19731 of 2012. This Court vide order Annexure P-3 dated 23.10.2013 while disposing of the

petition, has observed as under:-

“Thus, the Magistrate, while ordering re-investigation of the case, had based reliance only on the statement of the complainant. In fact, the Magistrate should have gone through the contents of the cancellation report and satisfied itself as to whether the investigation conducted by the police was proper or not and whether the matter required further investigation.

Accordingly, this petition is allowed. Impugned order dated 11.05.2012 (Annexure P-25) is set aside. Learned Magistrate is directed to pass a fresh order in accordance with law.”

In pursuance to the said order, the matter was taken up by the Chief Judicial Magistrate and vide impugned order, it was held that the cancellation report filed in the FIR No.251 dated 26.11.2011, under Sections 406, 408, 419, 420, 120-B IPC, registered at Police Station City Tarn Taran, be attached with the compliant filed by the present petitioner against Naresh Kumar and others, under Sections 406, 408, 419, 423, 467, 468, 471, 120-B IPC.

The relevant observations of the learned Chief Judicial Magistrate while passing the impugned order, are reproduced herein below:-

“5. Perusal of the file shows that the cancellation report was again submitted for consideration consequent upon the direction issued by Punjab and Haryana High Court vide order dated 23.10.2013. In the meantime, Shrikant Sood moved

an application for giving him hearing in the present cancellation report. He also filed a separate complaint against the accused under Sections 406, 408, 419, 423, 467, 468, 471 and 120-B IPC. Perusal of the FIR No.251 reveals that in the column of complainant, the name of Shrikant Sood son of Kedar Nath has been mentioned. Even the content of the FIR reveals that criminal machinery was put into actio upon the complaint made by Shrikant Sood. However, the prosecution has cited the District Education Officer (DEO) as complainant.

6. The question as to whether Shrikant Sood can be treated as a complainant in the FIR No.251 is a matter of evidence. However, Shrikant Sood has also filed a private complaint against the accused, therefore at this stage, I do not deem it appropriate to pass any order on the cancellation report. Even the contents of the cancellation report demand adjudication on the basis of evidence and no definitive conclusion can be drawn amidst allegations and counter allegations by both the parties.

7. In view of these facts and circumstances report, the present cancellation report filed in FIR no.251 by police Station City Tarn Taran is order to be attached with the complaint titled Srikant versus Naresh Kumar and the same will be adjudicated upon pre-summoning evidence led by Shrikant Sood. It is made clear that heavy onus lies upon the complainant Shrikant Sood to prove by way of preliminary evidence that he has locus stand to file the complaint against the accused.”

Thus, vide impugned order, learned Chief Judicial

Magistrate had rightly directed that the FIR case be attached

with the complaint filed by the petitioner. FIR/ State case was initiated by the petitioner as he had moved a complaint to District Education Officer, which ultimately resulted in registration of the FIR No.251 dated 26.11.2011, under Sections 406, 408, 419, 420, 120-B IPC, registered at Police Station City Tarn Taran.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

January 29, 2015
m.singh