

CRM-M-22547 of 2014 1

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

**CRM-M-22547 of 2014
Date of decision : 14.05.2015**

Amrik Singh and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Pritam Saini, Advocate
 for the petitioners.

 Mr. Jashanpreet, AAG, Punjab.
 for respondent no.1.

 None for respondent no.2.

DARSHAN SINGH,J(Oral)

The present petition has been filed under Section 482 Cr.P.C for quashing the FIR No. 16 dated 07.03.2014, under Sections 447, 427, 506, 511, 148, 149 of Indian Penal Code, Police Station Mullanpur Garibdass, District S.A.S.Nagar Mohali and the order dated 24.05.2014 passed by the learned Judicial Magistrate Ist Class, Kharar, vide which the cancellation report has been rejected and re-investigation has been ordered.

Learned counsel for the petitioner states that the order dated 24.05.2014 passed by the learned Judicial Magistrate Ist Class, Kharar is

illegal as the Magistrate has no jurisdiction to order for re-investigation of the case. To support his contentions he relied upon case Anju Chaudhary Vs. State of U.P and another 2013(1) R.C.R (Criminal) 686. He contended that the petitioner will be satisfied if that order is set aside and the Magistrate is directed to pass the fresh order in-accordance with law.

Learned State counsel has also not disputed the aforesaid legal position.

Perusal of the impugned order dated 24.05.2014 passed by the learned Judicial Magistrate Ist Class shows that after recording statement of the complainant, learned Magistrate has returned back the cancellation report and ordered for re-investigation of the matter because the complainant has not agreed for acceptance of the cancellation report. The impugned order passed by the learned Magistrate is illegal in view of the ratio of law laid down by the Hon'ble Supreme Court in Anju Chaudhary's case (Supra), wherein the Hon'ble Apex Court has laid down as under:-

“More so, in the backdrop of the settled canons of criminal jurisprudence, re-investigation or denovo investigation is beyond the competence of not only the investigation agency but even that of the learned Magistrate. The courts have taken this view primarily for the reason that it would be opposed to the scheme of the Code and more particularly Section 167(2) of the Code.”

Thus, in the aforesaid authority a clear ratio of law has been laid down by the Hon'ble Apex Court that it is beyond the competency of

the Magistrate to order re-investigation. Moreover, in the impugned order no reason has been mentioned by the Magistrate as to on what ground re-investigation is required. Mere this fact that the complainant has not agreed for acceptance of the cancellation report is no ground to order for re-investigation/further investigation.

Thus, the present petition is hereby allowed to the extent that the impugned order dated 24.05.2014 being illegal is hereby set aside. The learned Magistrate will pass the fresh order on the cancellation report in-accordance with law expeditiously preferably within six months.

14.05.2015

s.khan

**(DARSHAN SINGH)
JUDGE**