

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

**Criminal Misc. No. M-33350 of 2011 (O&M)
Date of Decision: 18.09.2015**

Pinder Kaur

...Petitioner(s)

Versus

State of Punjab & others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. *Whether reporters of local newspapers may be allowed to see judgment?*
2. *To be referred to reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Present:- Mr. M.K. Bhatnagar, Advocate
for the petitioner (s).

Mr. Ashish Sanghi, DAG, Punjab.

Mr. D.S. Pheruman, Advocate and
Mr. Tarunvir Singh Khehar, Advocate
for respondents no.2 and 3.

HARI PAL VERMA J.(Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of order dated 28.4.2011 (Annexure P-2) passed by learned Additional Sessions Judge, Amritsar, whereby the cancellation report submitted by the Vigilance Bureau, Amritsar in FIR No.40 dated 2.9.2009 under Section 7 and 13(2) of the Prevention of Corruption Act, 1988 has been accepted.

Briefly stated, the facts of the case are that on the statement of the complainant-petitioner namely Pinder Kaur, who was working as a Anganwari Worker in the office of CDPO at Jagdev Kalan Centre, Amritsar, the aforesaid FIR was registered. It is the case of the prosecution that Joginder Kaur, Incharge, CDPO i.e. respondent no.2 and Meena Kumari, Supervisor i.e. respondent no.3, withheld the honorarium of the petitioner on the ground of her absence from duty. For the release of the same, respondent no.2 demanded bribe of Rs.7,000/-. The matter was settled at Rs.6,000/-. Out of this amount, Rs.5,000/- was to be retained by respondent no.2, whereas Rs.1,000/- was to be given to respondent no.3. However, on the complaint made by the petitioner, raid was conducted by the Vigilance Bureau and an amount of Rs.5,000/- was recovered from respondent no.2, whereas, an amount of Rs.1,000/- was recovered from the possession of respondent no.3. Further, an enquiry was conducted by Mr. Harbhajan Singh, DSP, Vigilance Bureau and thereafter by Banarasi Dass, DSP, Vigilance Bureau, who came to the conclusion that the FIR was registered by the complainant on false facts. Accordingly, the cancellation report was submitted by Baljit Singh, DSP, Vigilance Bureau, Amritsar, which has been accepted by learned Additional Sessions Judge, Amritsar.

Learned counsel for the petitioner contends that the recovery was effected from the respondents no.2 and 3 – accused in the presence of the officials of the department, but the private

respondents being influential persons, got the cancellation report prepared. He further submits that the Court has accepted the cancellation report without taking into account the contentions raised by learned counsel for the petitioner-complainant. Since the petitioner has shown her disagreement to the cancellation report, therefore, the case is liable to be re-investigated.

I have heard learned counsel for the parties.

Though the instant petition filed under Section 482 CrPC for quashing of order dated 28.4.2011 passed by learned Additional Sessions Judge is not maintainable in the present form. The respondents no.2 and 3 in their reply have taken specific objections about the maintainability of this petition. Once there is specific provision to seek the relief under the law, it is incumbent upon the aggrieved party to invoke the remedy available under law. While accepting the cancellation report, as submitted by the Vigilance Bureau, a notice was given to the complainant, but she did not file any protest petition and she has only made a statement not to accept the cancellation report. Statement of complainant reads as under:-

"I have got the present FIR registered against the accused Complainant Applicant. I am not agree with the cancellation report submitted by the Vigilance Bureau. The case must be reinvestigated."

In this manner, the complainant has failed to point out any fault in the investigation or any particular material which has not

been taken into consideration by the investigating agency and no protest petition has been filed by her. Learned Additional Sessions Judge has used his wisdom in accepting the cancellation report which is detailed one and is based on investigation conducted by senior police officials who are otherwise competent to investigate.

Admittedly, the matter has been investigated by different DSPs from time to time and accordingly, the cancellation report was submitted. Apart from the fact that the prosecution has not obtained the sanction from a competent authority for the prosecution of the accused, the prosecution story has been disbelieved by the Court, as the amount of release of honorarium was already issued even before the alleged amount of the bribe was given.

Thus, once the Vigilance Bureau has submitted the cancellation report, which has been duly accepted by the Court by passing a detailed order and petitioner has failed to file protest petition, no interference is warranted in this case under Section 482 CrPC.

Accordingly, the present petition is dismissed.

September 18, 2015
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(HARI PAL VERMA)
JUDGE