

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Crl. Misc. No. M-33192 of 2014 (O&M)
Date of decision : 12.02.2015

Om Parkash

... Petitioner

Versus

Alok Mittal, Commissioner of Police,
Gurgaon & ors.

.. Respondents

CORAM : HON'BLE MS.JUSTICE RITU BAHRI

Present : Mr. Pardeep Kumar Rapria, Advocate
for the petitioner

RITU BAHRI, J.

This petition under Section 482 Cr.P.C is for quashing of order dated 16.08.2014 vide which the petition under Section 156 (3) Cr.P.C to register the F.I.R against the unknown persons has been dismissed.

On a petition filed under Section 156 (3) Cr.P.C, an enquiry was conducted by the Special Investigation Team, Palam Vihar, Gurgaon and vide its report dated 01.08.2014 (P-4), it was stated that there were two persons with the name of Pinki, whose names figure in the voter list. During investigation, it was found that Pinki w/o Phool Singh was r/o 703, Bhawani Enclave, Gurgaon and Pinki d/o Santosh Kumar is resident of 1074, Eight Biswa, Village Gurgaon and

attached Form No. 6, appears to be of Pinki Rohilla. The serial number of mark sheet of Pinki d/o Santosh Kumar and Pinki w/o Phool Singh are same. The ration card No. 18189 of Phool Singh s/o Yaadram resident of H. No. 1291, village Gurgaon, which has been used for creating vote, appears to be forged one. As per report, two persons with a same name i.e Pinki have been indicated. Thereafter, statement of Om Prakash has been recorded that he was unable to produce any evidence. He has further made a statement that there were about 32000 fake votes created in Gurgaon and alleges that the Sports Minister of Haryana Government is one of the accused. Thereafter, the complaint was withdrawn. On the statement of the complainant, the impugned order dated 16.08.21014 (P-6) has been passed. Moreover, he has also annexed the letter dated 17.08.2014 given by Phool Singh in which he has stated that his forged and fabricated documents had been used for creating fake votes with the active aid of Sukhbir accused and other persons

As per statement made by the complainant (P-5) SIT has submitted its report dated 01.08.2014 wherein two persons with a same name i.e Pinki have been indicated and the vote of Pinki had been made by using forged and fabricated documents. He further stated that there are 32000 fake votes created in Gurgaon. The Sports Minister of

Haryana Government was one of the accused in his petition against whom 9 F.I.R's have been registered and 13 enquiries had been ordered by the concerned Courts. However, after making this statement, the complainant withdrew his application under Section 156(3) Cr.P.C from the Court of Civil Judge (Jr. Divn.), Gurgaon as he was unable to examine any witness in his preliminary evidence. Thus, the Magistrate did not proceed with the complaint. The complainant had withdrawn the complaint after making his statement, despite the fact that in the enquiry report, one vote in the name of Pinki was found to be made with forged and fake documents. He was unable to lead the evidence. The Magistrate under the provisions of Section 156(3) Cr.P.C had applied its own mind and allowed the complainant to withdraw the application.

No direction can be made to the Magistrate to register F.I.R under Section 156(3) Cr.P.C once the complainant had withdrawn the application. The bare statement made by the complainant that there are 32000 fake votes, which was without any evidence cannot be a ground to order the Magistrate to register F.I.R. Pursuant to the report given by the police, the complainant could have proceeded by recording his evidence which he chose not to do.

In view of the above circumstances of the case, order dated 16.08.2014 does not require any interference by this Court.

The petition is dismissed.

12.02.2015
G Arora

(RITU BAHRI)
JUDGE