

In the High Court of Punjab and Haryana at Chandigarh

**CRM-M-38440 of 2012
Date of Decision: 12.02.2015**

Shankutla Devi

---Petitioner

versus

State of Haryana and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Susheel Gautam, Advocate
for Mr. Gurpreet Singh, Advocate
for the petitioner**

**Mr. Rajesh Gaur, Addl. A.G.Haryana
for the respondent-State**

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

REKHA MITTAL, J.

The present petition under Section 482 of the Code of Criminal Procedure has been preferred for quashing calendra filed under Section 182 of the Indian Penal Code (in short "IPC") and proceedings emanating therefrom.

The sole submission made by counsel for the petitioner is that the cancellation report in respect of the FIR lodged on the basis of complaint filed by the petitioner has been filed in the Court subsequent to initiation of proceedings under Section 182 IPC and the said cancellation report is pending consideration of the Court till date, therefore, the

proceedings under Section 182 IPC are pre-mature and liable to be quashed. The cancellation report may be rejected by the Court but the Court may take cognizance of the offence on the basis of cancellation report or on the protest petition which may be filed by the petitioner in response to the said cancellation report. In support of his contention, he has relied upon judgment of this Court **Amarjit Sehgal and others vs. State of Punjab and another**, Criminal Misc. No. M- 10000 of 2009, decided on 3.2.2010.

Counsel for the State is not in a position to refute factual contentions raised by counsel for the petitioner that cancellation report has been submitted in the Court subsequent to filing of the present petition and initiation of proceedings under Section 182 IPC, the said cancellation report has not been accepted till date and is pending consideration. He is not in a position to cite any law contrary to what has been held by this Court in **Amarjit Sehgal and others' case (supra)**.

I have heard counsel for the parties and perused the records.

A relevant extract from the judgment passed in **Amarjit Sehgal and others' case (supra)** reads as follows:-

*“The proceedings under Section 182 IPC have been initiated against the petitioners before any finding was recorded by the learned criminal Court regarding the falsity of the FIR lodged by the petitioner. The matter is squarely covered by **Babita Vs. State of Punjab and another, 2008(4) RCR (Criminal) 516** and **Ramesh Chand Vs. State of Haryana, 2006(4) RCR (Criminal) 718**. In the first ruling cancellation report was*

*submitted before the Magistrate, but it was not accepted. Before acceptance of that, a complaint was made under Section 182 IPC against the person who had lodged that FIR. It was held therein that where the final opinion by the Court is yet to be expressed as regard the falsity of the complaint made by the petitioner, permitting the respondents to proceed with the proceedings under Section 182 IPC would amount to pre-judging the complaint filed by the petitioner. The petition is pre-mature and would amount to abuse of process of law. The proceedings in that case were quashed in order to secure the ends of justice. Similar proposition of law was laid down in **Ramesh Chand's case (Supra).**”*

Keeping in view the observations made by this Court in the abovesaid authority, I find merit in the contention of the petitioner that proceedings initiated under Section 182 IPC are premature and liable to be quashed on this score alone.

In view of what has been discussed hereinabove, the petition is allowed and calendra filed under Section 182 IPC and proceedings emanating therefrom are quashed without prejudice to the rights of the respondents to file proceedings in case the cancellation report is accepted by the Court.

(REKHA MITTAL)

JUDGE

12.02.2015

PARAMJIT