

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-4709 of 2014

.....

Date of decision:12.1.2015

Gurjit Kaur

...Petitioner

v.

State of Punjab and another

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Baltej Singh Sidhu, Advocate for the petitioner.

Mr. Varun Sharma, Assistant Advocate General, Punjab
for the respondent-State.

Mr. A.P.S. Deol, Senior Advocate with Mr. Davinder Bir
Singh, Advocate for respondent No.2.

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Inderjit Singh, J.

The petitioner has filed this petition under Section 482 Cr.P.C. for setting aside the impugned order dated 25.10.2013 (Annexure-P.6) passed by the learned Sub Divisional Judicial Magistrate, Sardulgarh, whereby the cancellation report dated 13.8.2013 (Annexure-P.4) has been accepted illegally and erroneously against the facts and circumstances of the case.

Notice of motion has been issued in this case.

Mr. Varun Sharma, learned Assistant Advocate General,

Punjab has put in appearance on behalf of the respondent-State and Mr.

A.P.S. Deol, Senior Advocate assisted by Mr. Davinder Bir Singh, Advocate has appeared for respondent No.2 and contested this petition.

I have heard learned counsel for the petitioner and learned Assistant Advocate General, Punjab appearing for the respondent-State as well as learned Senior Advocate for respondent No.2 and have gone through the record.

This is a petition under Section 482 Cr.P.C. for setting aside the order dated 25.10.2013, vide which the cancellation report has been accepted. In no way, the impugned order Annexure-P.6 can be held as an interlocutory order. While accepting the cancellation report, the proceedings have come to an end. Only revision petition is maintainable and the proceedings under Section 482 Cr.P.C. are not maintainable because specific remedy is available with the petitioner to challenge the order by way of criminal revision.

Learned counsel for the petitioner has placed reliance upon the judgment of Hon'ble Supreme Court in Dhariwal Tobacco Products Ltd. and others v. State of Maharashtra and another, 2009 (1) R.C.R. (Cr.) 677.

On the other hand, learned senior counsel for respondent No.2 has placed reliance on the judgment of Hon'ble Supreme Court in Mohit alias Sonu and another v. State of U.P. and another, 2013 (3) R.C.R. (Cr.) 673, wherein it has been held that when an order, not interlocutory in nature, can be assailed in the High Court in revisional jurisdiction, then there should be a bar in invoking the inherent jurisdiction of the High Court. In other words, inherent power of the Court can be exercised when there is no remedy provided in the Code of Criminal Procedure for

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redressal of the grievance. The Hon'ble Supreme Court has relied upon the judgments passed in Padam Sen v. State of Uttar Pradesh, AIR 1961 SC 218 and Manohar Lal Chopra v. Raj Bahadur Rao Raja Seth Hiralal, AIR 1962 SC 527. Keeping in view the law laid down by the Hon'ble Supreme Court, this petition under Section 482 Cr.P.C. is not maintainable. Only criminal revision is maintainable against the order.

Therefore, only on this ground, the present petition is dismissed being not maintainable.

January 12, 2015.

(Inderjit Singh)
Judge

hsp