

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

Crl. Misc. M 16968 of 2016 (O&M)
Date of decision: 12.12.2016

Idrish

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Sarfraj Hussain, Advocate
for the petitioner.

Mr. Surinder Kumar Yadav, DAG, Haryana.

JAISHREE THAKUR, J. (Oral)

This petition has been filed under Section 482 of the Code of Criminal Procedure seeking for quashing of Calendra dated 10.2.2016 in FIR No. 182 dated 22.9.2014 (Annexure P/1) registered under Section 302/34 IPC at Police Station Nagina, District Mewat.

Learned counsel for the petitioner contends that the daughter of the petitioner was murdered by one Juber and others for which FIR No. 182 dated 22nd September, 2014 under Section 302 read with Section 34 IPC was registered. The police, on investigation, found that no offence was made out under the said section and filed a cancellation report on 25th April, 2016. On the basis of the cancellation report, the police prepared a Calendra under Section 182 IPC against the petitioner. Aggrieved against that, the petitioner has filed the instant petition.

Learned counsel for the petitioner contends that the petitioner has filed a criminal complaint before the learned Judicial Magistrate, Ferozepur Jhirka and the same is now pending for preliminary evidence and in view thereof the proceedings instituted under Section 182 IPC against the petitioner could not succeed. Reliance in this regard has been placed on judgment rendered in **Banta Singh Versus State of Haryana reported in 1995 (3) RCR (Criminal) 133**, which was subsequently followed in **Bishamber Versus State of Haryana Criminal Misc. No. M-16933 of 2015 decided on 11th December, 2015**.

In the aforesaid judgments, it has been held that where the police has submitted a Calendra against the petitioner for making false statement to the police in respect of a criminal offence and the petitioner had filed a complaint before the Magistrate regarding the same offence as in the FIR, such Calendra against the petitioner could not proceed and would be liable to be quashed. In the instant case too, the petitioner herein had lodged FIR No. 182 under Sections 302/34 IPC on 22nd September, 2014, in which the police, on investigation, filed a cancellation report and thereafter proceeded under Section 182 IPC. The ratio, as laid down in **Banta Singh and Bishamber (supra)**, is wholly applicable to the facts of the present case as long as the complaint is pending against the same offence as alleged in the FIR.

For the aforestated reasons, this petition is allowed and the Calendra dated 10.2.2016 (Annexure P/1) in FIR No. 182 dated 22.9.2014

registered under Section 302/34 IPC at Police Station Nagina, District
Mewat, is hereby quashed.

12.12.2016
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No