

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

**CRM-M No. 18046 of 2015
Date of decision: 09.12.2016**

Dilbagh Singh & Others

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vinay Kumar, Advocate
for the petitioners.

Mr. Mikhail Kad, AAG, Punjab
for the respondent.

Mr. H. S. Baath, Advocate
for the complainant.

JAISHREE THAKUR, J.

The instant petition has been filed under Section 482 of the Code of Criminal Procedure for setting aside the impugned order dated 27.04.2015 (***Annexure P-2***) passed by learned Chief Judicial Magistrate, Tarn Taran, wherein reinvestigation has been ordered in case FIR No. 248 dated 28.06.2014, registered under Sections 447, 511, 354 and 506 of the Indian Penal Code at Police Station City Tarn Taran, District Tarn Taran.

In brief, the facts are that the petitioners herein were implicated in above mentioned case. It is contended that there is a dispute between the complainant and the petitioners herein regarding a piece of land which is pending in the village panchayat and as a counter blast to the dispute, a complaint was filed before the police which did not mention any date, time or place of alleged occurrence. After investigation, the police filed a cancellation report in the trial Court but the complainant being dissatisfied

with the cancellation report made statement to that effect on the basis of which, the Chief Judicial Magistrate, Tarn Taran, on 27.04.2015, ordered for reinvestigation in the case. Aggrieved against the said order dated 27.04.2015 that was passed for reinvestigation, the instant petition has been filed.

Learned counsel appearing on behalf of the petitioners contends that the Magistrate has ordered reinvestigation on the ground that the complainant is not satisfied and such an order is illegal insofar as it is for the Court to form an opinion as to whether the investigation conducted by the police is proper or not. It is not for the satisfaction of the complainant. In this regard, reliance has been placed upon a judgment rendered in ***Prithvi Raj Sehgal vs. State of Punjab & Others, 2007 (3) RCR (Criminal) 438***, wherein a coordinate Bench of this Court held that once a cancellation report is submitted to the Judicial Magistrate, he can reject the same by giving reasons and refer the matter for further investigation or he can take cognizance of the offence himself but he can not reject the cancellation report merely on the ground that the complainant is not satisfied with the cancellation. It is further held that the Magistrate can not compel the investigating agency to take a particular view in the investigation or to change its opinion so as to be in accord with the view of the Court. Reliance was placed upon a judgment rendered in ***Harinder Pal Singh vs. State of Punjab, 2004 (2) RCR (Criminal) 307***.

Therefore, in light of the aforesaid decision, the order passed by the Chief Judicial Magistrate, Tarn Taran is hereby set aside on the ground that the Magistrate has not formed an opinion as to why the cancellation report is not to be accepted while ordering reinvestigation in the matter.

If the Magistrate is of the opinion that there is sufficient material against the accused available on the record, he can take cognizance of the offence under Section 190(1) Cr.P.C. but he can not order reinvestigation without there being valid or cogent reasons for not accepting the cancellation report.

In view of the above facts, the impugned order dated 27.04.2015 is hereby set aside and the matter is remanded back to the Chief Judicial Magistrate, Tarn Taran for passing orders afresh.

Petition stands disposed of.

09.12.2016

Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No