

**IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**

CRM-M-31882-2013 (O & M)  
Date of decision:10.02.2016

Ajit Singh and ors.

...Petitioner(s)

Versus

State of Punjab and anr.

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA**

Present: Mr. P.S. Ahluwalia, Advocate,  
for the petitioner(s).

Mr. Ankur Jain, AAG, Punjab.

Mr. Sunil Agnihotri, Advocate,  
for respondent No.2.

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**Rajan Gupta, J. (oral)**

FIR was registered by the Vigilance Bureau, Hoshiarpur. It was alleged that certain officials of Punjab State Electricity Board had inspected the electricity connection of the complainant and, thereafter, demanded ₹30,000/- as bribe from him. This amount was handed over to the petitioner but no receipt was given. Case was registered under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988 (to be referred as "Act" hereinafter). Investigation ensued. On 03.05.2010, investigating agency submitted a cancellation report before the Special Court, Hoshiarpur. The court, however, did not accept the same and directed the Vigilance Bureau to reinvestigate the matter. Investigating agency again came to the same conclusion and submitted another cancellation report. This report was also rejected by the court on the ground that the complainant did not agree with the same. Matter was sent back for reinvestigation. The investigating agency again examined the matter and submitted

third cancellation report, which was also not accepted on the ground that the complainant did not agree. Matter was returned to the Vigilance Bureau for reinvestigation.

Petitioner has impugned the orders passed by the Special Court inter alia on the grounds that the issue had been thoroughly investigated, thus, there was no question of reinvestigation. Besides, the court cannot impose its own view on the investigating agency. Reliance has been placed upon the judgment reported as ***Abhinandan Jha versus Dinesh Mishra, AIR 1968 SC 117*** and ***Harinder Pal Singh versus State of Punjab 2004(2) RCR (Criminal) 307.***

In the judgment reported as ***Abhinandan Jha (supra)***, Hon'ble Supreme Court came to the conclusion that Magistrate had no power to direct the police to submit a charge-sheet if it has already come to the conclusion that no case is made out for sending the accused for trial. The court also delved on the function of the Magistracy and observed that Magistrate may or may not accept the report and take a suitable action according to law. He, however, cannot impinge upon the jurisdiction of the police by compelling them to change its view.

In a case reported as ***Harinder Pal Singh (supra)***, this court observed that Special Judge cannot reject the cancellation report submitted for the second time on the same ground and order further investigation.

In the instant case, admittedly, cancellation report was submitted for the third time. The court, however, returned the same

for reinvestigation on the ground that the complainant did not agree with the report.

I am of the considered view that the orders passed are unsustainable in law. After the Special Judge directed the investigating agency to reinvestigate the matter vide order, Annexure P-3, investigating agency reinvestigated the matter and submitted a cancellation report. Same could not have been rejected merely on the ground that the complainant did not agree with the final report submitted by the investigating agency. Even, thereafter, the investigating agency came to the same conclusion and submitted another report. It is evident that there has been an effort on the part of the Magistrate to impose his view on the investigating agency by asking it to investigate the matter time and again. Such an action cannot stand scrutiny of law. Thus, orders Annexures P-4 and P-5 are hereby set aside. It cannot be lost sight of that in absence of sanction as envisaged under Section 19 of the Act, the court in any case cannot proceed further with the matter.

The petition is, thus, allowed in these terms.

**10.02.2016**  
sukhpreet

**(RAJAN GUPTA)**  
**JUDGE**

To be referred to the reporter ?      Yes