

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

CRM-M-38651 of 2014.

Decided on:-30.03.2016.

Kashmir Kaur.

.....Petitioner.

Versus

State of Punjab and others

.....Respondents.

CORAM: *HON'BLE MR. JUSTICE HARI PAL VERMA.*

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

Present:- Mr. M.S. Kang, Advocate
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

Mr. Vivek K. Thakur, Advocate
for respondents No.4 to 7.

Mr. J.S. Bajwa, Advocate for
Mr. G.B.S. Dhillon, Advocate
for respondent No.8.

HARI PAL VERMA, J.

Petitioner Kashmir Kaur wife of Jeet Singh, resident of village
Sohal Khalsa, Tehsil Shahkot, District Jalandhar has filed the present
petition under Section 482 Cr.PC for issuance of a direction to respondents
No.1 to 3 to register FIR against respondent No.4 and unknown persons as

named in Annexure P-3 and for transfer of investigation to some independent agency.

Reply on behalf of respondents No.1 and 2 has already been placed on record by way of affidavit of Mandeep Singh, PPS, Deputy Superintendent of Police, Sub-Division Shahkot, District Jalandhar. It has been mentioned therein that petitioner Kashmir Kaur got registered FIR No.238 dated 26.9.2014 under Section 365 IPC at Police Station Shahkot. After registration of the case, Jeet Singh, husband of the petitioner-complainant has given a statement during the course of investigation in the presence of Inspector/SHO Manjit Singh to the effect that he has cast his vote with his own free will and he was neither pressurised nor kidnapped by anyone. Statement of said Jeet Singh was recorded in the presence of Gurdev Singh and Major Singh, Secretary of the Co-operative Society.

It has further been mentioned in the reply that even petitioner Kashmir Kaur has also submitted her complaints on 30.9.2014 and 28.10.2014 wherein she made allegations against Avtar Singh Sarpanch, Amanpreet Singh, Gurpal Singh Lambardar, Sagar Singh, Gurpreet Singh, Gurbacahan Singh Sarpanch and Gurdev Singh. These complaints were duly enquired into by DSP, Sub Division Shahkot, who found these allegations totally false. Accordingly, the enquiry report was submitted to Senior Superintendent of Police (Rural) Jalandhar, who approved the enquiry report conducted by DSP, Sub-Division Shahkot and recommended cancellation of the case. As such, cancellation report dated 9.3.2015 was prepared and the same was submitted in the Court.

Learned counsel for the petitioner has argued that in view of law laid down by Hon'ble Supreme Court in the case of ***Lalita Kumari Versus State of UP 2013(4) RCR (Criminal) 979***, the police is duty bound to act on the complaint of petitioner Kashmir Kaur and inform her about the status of her complaint. Learned counsel has further contended that the provisions of Section 157(2) Cr.PC are also required to be followed by the police.

Learned counsel for the respondents, on the other hand, have argued that in view of the cancellation report, no such direction can be issued in this petition as the petitioner has got the remedy available under law. Even if she has any grievance against the acceptance of cancellation report, she is at liberty to file the protest petition as provided in Cr.PC.

I have heard learned counsel for the parties.

Chapter XII Cr.PC deals with information to the police and its powers to investigate and therefore, appropriate remedy is available to the petitioner under this Chapter. Section 157 Cr.PC reads as under:

“157. Procedure for investigation.- (1) If, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the State Government may, by general or special order, prescribe in this behalf, to proceed, to the spot, to investigate the facts and circumstances

of the case, and, if necessary, to take measures for the discovery and arrest of the offender:

Provided that—

(a) when information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police station need not proceed in person or depute a subordinate officer to make an investigation on the spot;

(b) if it appears to the officer in charge of a police station that there is no sufficient ground for entering on an investigation, he shall not investigate the case;

(2) In each of the cases mentioned in clauses (a) and (b) of the proviso to sub-section (1), the officer in charge of the police station shall state in his report his reasons for not fully complying with the requirements to that sub-section, and, in the case mentioned in clause (b) of the said proviso, the officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the State Government, the fact that he will not investigate the case or cause it to be investigated.”

There is no dispute that the police has conducted necessary investigation and after investigating the matter, has submitted the cancellation report. Therefore, prayer of the petitioner for issuance of a direction to respondents No.1 to 3 to register the case cannot be accepted as the petitioner has the remedy available to her under the provisions as enshrined in Cr.PC.

Moreover, status of the FIR No.238 of 2014 under Section 365 IPC registered at Police Station Shahkot, as available on the official

website of Sessions Court, Jalandhar reveals that the cancellation report is pending in the Court of Judicial Magistrate 1st Class, Nakodar on 12.4.2016 for evidence of the complainant. In these circumstances, when the cancellation report is being contested by the petitioner-complainant before the Court of learned Magistrate, Nakodar, no indulgence of this Court is warranted at this stage.

Accordingly, the present petition, being devoid of any merit, is dismissed.

March 30, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE