

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

Sr. No.246

CRM No.M-41877 of 2015

Date of decision : April 21, 2016

Abhey Singh

...Petitioner...

versus

State of Haryana and others

...Respondents...

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. Kanwal Goyal, Advocate,
for the petitioner.

Mr. S.S. Pannu, DAG, Haryana,
for respondents No.1 to 4.

Mr. Salil Bali, Advocate,
for respondents No.5 to 9.

JASPAL SINGH, J.

This petition has been preferred under Section 482 of the Code of Criminal Procedure praying for entrustment of investigation arising out of FIR No. 239, dated May 10, 2014, under Sections 306, 34 of IPC, registered at Police Station Mahendergarh, District Mahendergarh (Annexure P-1) to an independent agency like Central Bureau of Investigation (CBI) etc. No doubt after the registration of the FIR referred to above, the investigation has been carried out by the investigating agency and as per the reply filed by way of affidavit of Omprakash, HPS, Deputy Superintendent of Police,

Mahendergarh on behalf of respondents No.1 to 4, the cancellation report has been filed but as per the allegation of learned counsel for the petitioner the cancellation report has not been presented before the learned Jurisdictional Magistrate.

2. Preliminary objection No.2 of the reply furnished by the State is relevant and it would be desirable to be reproduced the same for ready reference:-

“That it is also pertinent to mention here that during the course of investigation the allegations, the respected people of the village were joined investigation and they have specifically contended that the private respondent no.5 to 9 were not involved in the incident. The allegations leveled by the petitioner against the private respondent no. 5 to 9 were not substantiated by any iota of evidence. The verification of the facts and evidence of the present case was also conducted by the higher police authority and no involvement in the private respondent no. 5 to 9 in the present incident. The necessary ingrediance to make the present incident as an offence u/s 306 IPC are missing in view of the evidence brought on the judicial file during the course of investigation. Therefore, taking into consideration, the totality of facts and circumstances of this case, a cancellation report has been prepared and sent to the higher police authority for onward

submission to the Ld. Illaqua Magistrate and the cancellation report is pending in the Ld. Court for acceptance.”

3. A glance at the aforesaid paragraph makes it crystal clear that taking into consideration the totality of the facts and circumstances of the cancellation report has been furnished, if the cancellation report has not so far been furnished by the investigation officer, let the same be furnished within a period of two weeks from the date of receipt of certified copy of this order which shall be dealt with immediately by the concerned Magistrate in accordance with law.

4. In view of the cancellation report, the investigation of this case cannot be transferred to any other independent agency and the recourse/remedies which are available under law could be initiated by the aggrieved party i.e. petitioner either by way of filing protest petition, during the pendency of the cancellation report or irregular complaint or any other remedy which is available to him under law.

5. Instant petition is disposed of accordingly.

April 21, 2016

Ankur

**(JASPAL SINGH)
JUDGE**