

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

**CRM-M No.26715 of 2016 (O&M)
Decided on: 13.09.2017**

Baljinder Singh and others

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. D.S. Pheruman, Advocate for the petitioners.

Mr. K.S. Sidhu, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

CRM-28170-2017

Heard.

Allowed as prayed for.

Annexures P6 and P7 are taken on record subject to just exceptions.

MAIN CASE

Prayer in this petition is for quashing of the FIR No.101 dated 02.11.2009 registered under Sections 447, 511, 336, 506, 148, 149 of the Indian Penal Code, 1860 (in short 'IPC') read with Sections 25/27/54 of the Arms Act at Police Station Ramdas, District Amritsar (Rural) and further proceedings arising therefrom on the basis of compromise.

It is submitted on behalf of the petitioners that the aforesaid FIR was registered at the instance of respondent No.1 and later on, during the course of investigation, the matter was compromised between the parties and the complainant/respondent No.2

has submitted his duly attested affidavit which is attached as Annexure P2. On the basis of the affidavit submitted by respondent No.2/complainant, the police has prepared a cancellation report and moved an application before the trial Court on 10.08.2010 for accepting the same and cancelling the FIR. In the intervening period, the petitioners have also filed CRM-M No.9897 of 2010 for quashing of the FIR on the basis of the compromise, however, in the reply filed by Deputy Superintendent of Police, Sub-Division Ajnala it was stated that an untraced report has been prepared on 18.01.2010 and accordingly, it was held that no further action is required and the petition was disposed of on 16.03.2011. Counsel for the petitioners has further submitted that on enquiry from the trial Court, he has found that the untraced report was never accepted by the trial Court and the FIR is still alive against the petitioners and accordingly, the present petition has been filed praying for quashing of the FIR.

In pursuance to the notice of motion order, a report has been submitted by the Registry that respondent No.2 has since expired.

Counsel for the petitioner has submitted that when respondent No.2 was alive, he has appeared before the trial Court on 28.11.2011 and has made a statement that the present FIR No.101 dated 02.11.2009 was registered on his statement and he has no objection, if the untraced report filed by the police is accepted by the Court. The certified copy of his statement is attached as Annexure P6 with the petition. On the basis of the said statement, the trial Court, however, did not accept the cancellation report vide its order dated 12.04.2014 by observing that the police has not authority to declare that a person is not

interested to depose as a witness and the police should investigate the matter from all angles. It is, thus, submitted that since respondent No.2/complainant has already made a statement before the trial Court on 28.11.2013 that he has no objection if cancellation report is accepted by the Court, the order dated 12.04.2014 passed by the trial Court is not sustainable.

Counsel for the State, on instructions from ASI Pargat Singh, has not disputed the factual position.

In view of the fact that the complainant/respondent, when he as alive has already made a statement before the trial Court that he has no objection in case the cancellation report is accepted, especially in view of the fact that dispute between the parties has already been settled by way of a compromise and the complainant has also submitted a duly attested affidavit dated 08.01.2010, before the Investigating Officer who, on the basis of same prepared cancellation report, I find merit in the present petition.

Accordingly in view of the discussions made hereinbefore, the present petition is allowed; FIR No.101 dated 02.11.2009 registered under Sections 447, 511, 336, 506, 148, 149 IPC read with Sections 25/27/54 of the Arms Act at Police Station Ramdas, District Amritsar (Rural) and further proceedings arising therefrom are ordered to be quashed *qua* the petitioners.

(ARVIND SINGH SANGWAN)
JUDGE

13.09.2017
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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No