

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

CRM-M-41128-2015 (O&M)
Date of decision : 26.04.2017

Mohan Lal

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Rahul Sharma, Advocate for
Mr. Pardeep Bajaj, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab,
assisted by HC Nirmal Singh.

JITENDRA CHAUHAN, J. (Oral)

By filing the present petition under Section 482 of the Code of Criminal Procedure, the petitioner seeks direction to learned trial Court to accept the cancellation report (Annexure P-1) prepared in FIR No.92 dated 12.03.2010, registered under Section 7 of the Essential Commodities Act (for short, 'the EC Act') and Section 420 of the Indian Penal Code (for short, 'the IPC'), at Police Station Focal Point, District Ludhiana.

The instant case was registered under Section 7 of the EC Act and Section 420 IPC against the petitioner on the allegations that the petitioner was indulged into selling subsidized LPG and was found in possession of LPG cylinders. An instrument used for extracting LPG from the cylinders was also allegedly recovered.

The basis of the cancellation report prepared and filed before the Court is the inquiry conducted by ADCP-II, Ludhiana, on an application

moved on behalf of the wife of the petitioner, wherein, no incriminating evidence could be collected against the petitioner. On the basis of said inquiry report, cancellation of the FIR was recommended. As per record, on the basis of legal opinion tendered by the District Attorney, the cancellation report dated 05.03.2011(Annexure P-1) was prepared. Learned Judicial Magistrate, 1st Class, Ludhiana, rejected the cancellation report, Annexure P-1, vide order dated 27.04.2016, by holding that the enquiry report has failed to explain the recovery of instrument meant to be used in the extraction of LPG from the cylinders, meaning thereby that the investigation conducted so far is not sufficient to warrant cancellation of the FIR and the case needs further investigation.

I have heard learned counsel for the parties and perused the record carefully.

In this case, subsidized LPG cylinders along with an instrument used for extracting gas from the cylinders was recovered from the petitioner. Learned Court below has specifically recorded that inquiry report on the basis of which cancellation of the FIR had been sought is silent with regard to aforementioned factual aspect of the matter and particularly with regard to recovery of the said instrument. The cancellation report also reflects that the petitioner was not involved in the sale/black marketing of LPG cylinders and only used to provide refills of LPG cylinders after charging nominal fee from the purchasers.

In view of the serious deficiency/defect in the inquiry report, which is the basis for recommendation for cancellation of the FIR, this Court feels that learned Court below has rightly rejected the cancellation report, particularly, when the alleged conduct of the petitioner is against the

larger interest of the society. Learned Court below has rightly observed that further investigation in the matter is warranted. Thus, the impugned order at this stage cannot be said to be perverse or illegal.

The present petition is devoid of any merit and is hereby dismissed.

Appropriate action as per law be initiated against the Enquiry Officer and the District Attorney who recommended the cancellation report. The cancellation of the FIR, *prima facie*, appears to be not addressing the issue involved.

A copy of the order be sent to learned Chief Secretary for information and necessary action in the matter. Action taken report be sent to the learned Registrar General of this Court within four weeks from the date of receipt of certified copy of this order.

26.04.2017

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No