

CWP-14653-2015

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

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**CWP-14653-2015 (O&M)
Decided on: February 17, 2017.**

Lakha Singh and others

.. Petitioner(s)

VERSUS

State of Punjab and another

.. Respondent(s)

*** * ***

**CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI
* * ***

**PRESENT Mr.P.S.Kanwar, Advocate,
for the petitioners.**

**Mr.B.S.Sewak, Advocate,
for the applicant Narinder Singh Bhullar.**

Ms.Anu Pal, A.A.G., Punjab.

M.M.S. BEDI, J. (ORAL)

Vide order Annexure P5, dated 12.4.2014, the Presiding Officer, Mega Lok Adalat, Amritsar, has taken into consideration the cancellation report submitted by the police in FIR No.43 of 1996, under Sections 420, 467, 468, 471, 506, 193 and 120-B IPC, registered at Police Station Tarn Taran, and directed the police to present challan against the petitioners in the Court.

Misc. application No.2178-CWP-2016 is allowed.

Narinder Singh Bhullar complainant is permitted to be impleaded as respondent no.3 in the petition. Amended title is taken on record.

Heard.

No Court has got jurisdiction to issue direction to the investigating agency to present challan against the accused. Even no direction can be issued to the investigating agency unless and until, a patent mala fide or violation of any statutory provision is established to the satisfaction of the Court. This proposition of law has been settled by Hon'ble the Apex Court long time back in **Abhinandan Jha and others Vs. Dinesh Mishra, 1968 AIR (SC) 117.** Surprisingly, the Presiding Officer, Mega Lok Adalat, Amritsar, has taken into consideration the cancellation report and accepted the protest petition of the complainant. The said approach is also not permissible under law. The Court of competent jurisdiction i.e. the Judicial Magistrate First Class could have either accepted the cancellation report or ordered further investigation. The Judicial Magistrate First Class could have also considered the complaint of complainant as per the provisions of Section 200 of the Code of Criminal Procedure, for adjudication in accordance with law. The order passed by the Presiding Officer, Mega Lok Adalat, Amritsar, Annexure P5 dated 12.4.2014, is absolutely without jurisdiction if appreciated in the light of judgment of Hon'ble Apex Court in **State of Punjab and others Vs. Jalour Singh and others, 2008 (1) RCR (Civil) 857,** laying down that Lok Adalat is not a Court. It cannot hear the matter on merits and make an Award. It can only discuss the matter with parties and persuade them to arrive at a just

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settlement and give an award on the basis of settlement. Any order passed without jurisdiction is to be considered nullity. The order Annexure P5, dated 12.4.2014, is held to be a void order. A direction is issued that the complainant will appear before the Illaqua Magistrate, in the cancellation proceedings within a period of one month. The Court of competent jurisdiction will take up the protest petition and proceed with it in accordance with law.

Disposed of with above observations.

(M.M.S. BEDI)
JUDGE

February 17, 2017.

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Whether speaking / reasoned
Whether reportable:

Yes / No
Yes / No