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

I. CRM-M-6837-2016
Date of decision:28.11.2018

NEELAM BHANDARI ... Petitioner

versus

STATE OF PUNJAB & ANR. Respondents

II. CRM-M-15843-2018

NEELAM BHANDARI ... Petitioner

versus

STATE OF PUNJAB & ANR. Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Manoj Chahal, Advocate,
for the petitioner.

Mr. Jagmohan Ghumman, DAG, Punjab.

HARI PAL VERMA, J.(Oral)

This order shall dispose of two petitions i.e. ***CRM-M-6837-2016*** and ***CRM-M-15843-2018*** both titled as ***Neelam Bhandari Versus State of Punjab and another.***

In CRM-M-6837-2016, the petitioner has sought quashing of FIR No.26 dated 12.10.2015 registered under Section 409 IPC at Police Station Navi Baradari, Jalandhar City, whereas in CRM-M-15843-2018, she has sought quashing of order dated 27.03.2017 passed by learned Judicial Magistrate Ist Class,Jalandhar whereby the cancellation report prepared by the police in the aforesaid FIR has not been accepted.

Briefly stated, the petitioner was working as a Superintendent in Passport Office at Jalandhar and a complaint was made by the Regional Passport Officer, Jalandhar on 20.01.2015 against the petitioner, on the basis of which, the aforesaid FIR was registered. The contents of the FIR read as under:-

“To the Commissioner of Police Jalandhar Sub:- Legal Action. Sir One Neelam Bhandari was posted as Superintendent in this office. She willfully absented herself from duty from 26 Nov 2014 continuously till date, show cause notice was issued by this office and the same was sent to her given address through special messenger, who reported back that she has fled abroad (copy enclosed). Her act is illegal and gross indiscipline as she has gone abroad without NOC and without getting Ex India Leave sanctioned from the Ministry. She has illegally taken away with her the official resources which were allotted to her for discharge for the official duty i.e. Dongle with PSP ID PSP1238 and official identity Card. This is for you kind information and appropriate action under the law and fats regards. Sd/- RPO Jalandhar.”

Learned counsel for the petitioner has argued that the police has investigated the matter and had accordingly prepared a cancellation report. The order dated 27.03.2017 passed by learned Judicial Magistrate Ist Class, Jalandhar finds reference of the cancellation report wherein it has been submitted that during investigation, it was found that the 'dongle' was not misused by the petitioner and it is for this reason, the cancellation report was prepared by the police. He has further argued that admittedly, the 'dongle' was never put to any misuse by the petitioner, which fact has duly been accepted and appreciated by the prosecution during the investigation.

Moreover immediately after returning from abroad, the petitioner had joined the office and is still continuing as such. Since the petitioner had submitted a representation dated 26.11.2014 (Annexure P-3) explaining her health problem that she was suffering from hypertension, severe osteoporosis and heart problem since long, and that she wanted to get herself posted from Jalandhar to Ghaziabad for temporary duty, this had probably annoyed the Regional Passport Officer. It is in these circumstances, the FIR has been registered.

Learned State counsel, on instructions from ASI Ram Rattan, states that they have investigated the FIR and accordingly, prepared a cancellation report. It is the prerogative of the trial Court to accept the report or to decline its acceptance.

I have heard learned counsel for the parties.

This Court finds that a bare perusal of the FIR at the most suggests that the petitioner might have violated some Service Rules or the Code of Conduct if any, for which she can be proceeded under relevant service Rules. Merely because she was carrying the 'dongle' with her when she remained abroad cannot *ipso facto* lead to a conclusion that she had misused the dongle. Since the petitioner has joined her office & rather has been performing her duties and is on the verge of retirement, this Court finds that on the basis of available facts when the police has prepared a cancellation report, the trial Court should have accepted the report as the petitioner has not caused any wrongful loss to the State or wrongful gain to her in any manner, particularly when nothing has been pointed out by the State and cancellation report has been prepared.

In view of above, both the petitions are allowed and the order dated 27.03.2017 is hereby set aside and consequently, the FIR No.26 (supra) is also quashed.

(HARI PAL VERMA)
JUDGE

28.11.2018
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No