

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

**CRM-M-12611-2018
Date of decision-14.11.2019**

Bachittar Singh

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Robin Singh, Advocate for
Mr. Inderjit Sharma, Advocate for the petitioner.

Mr. Ramdeep Partap Singh, DAG, Punjab.

Mr. M.S.Basra, Advocate for respondent Nos.5 to 8.

MANOJ BAJAJ, J. (Oral)

Petitioner- Bachittar Singh has filed this petition under Section 482 Cr.P.C for issuance of directions to the official respondents to transfer the investigation of case FIR No.39 dated 14.06.2016 registered under Sections 323 and 324 read with Section 34 of Indian Penal Code, 1860 (Section 326 IPC added later on) at Police Station Dera Baba Nanak, District Batala and the cross version set up against the petitioner and others i.e. DDR No.25 dated 20.06.2016 registered under Sections 323 and 324 read with Section 34 IPC.

Pursuant to the notice of motion, reply by way of affidavit of Harinder Singh, PPS, Deputy Superintendent of Police, Sub Division Dera Baba Nanak, Police District Batala dated 20.07.2018 was filed on behalf of respondent Nos.1 to 4, wherein it is mentioned that the FIR was registered on the statement of Satnam Singh son of Didar Singh against the accused

persons who had inflicted injuries upon the complainant and Bachittar Singh (petitioner) son of Paramjeet Singh @ Balbir Singh. A cross version was recorded on the statement of Raj Singh son of Banta Singh for injuries suffered by complainant in DDR. The injuries suffered by the victims have also been highlighted. As per the reply, after completion of investigation founded on an inquiry report, a cancellation was recommended in the version set up by the petitioner, whereas in the cross case, the challan was recommended to be filed against the accused. The said report was filed before the Court of Smt. Mamta Kakkar, Judicial Magistrate First Class, Batala on 10.01.2018.

As per the stand of the respondents, it was concluded in investigation that the complainant-Satnam Singh and his associates were aggressors. Considering the stand of the parties, on 13.12.2018 the following order was passed:-

“It is not in dispute that in the same occurrence both the parties i.e. the petitioner side and respondents No. 5 to 8 suffered injuries. The reply on behalf of the State is already on the file indicating that after investigation, the cancellation report was submitted on 26.02.2018. However, the same was not accepted by the Court and further investigation was ordered vide order dated 02.04.2018. The reply further indicates that after further investigation, the cancellation report was reiterated and was filed on 03.07.2018.

Learned counsel for the respondent has submitted that as per the cancellation report, the petitioner was described as aggressor.

Learned counsel for the petitioner has argued that it is for the trial Court to determine the role of the parties as to who was the aggressor and who has exercised the right of private defence.

Let the Deputy Superintendent of Police, Dera Baba Nanak, Police Station Batala, file an additional affidavit indicating the material whereby the conclusion of

*cancellation has been drawn.
Adjourned to 27.02.2019.”*

Pursuant to the above order, response by way of affidavit Gurpartap Singh, PPS, Deputy Superintendent of Police, Sub Division Dera Baba Nanak, Police District Batala dated 14.03.2019 on behalf of respondent Nos.1-4 has been filed wherein in addition to the previous stand, it is highlighted that the complainant has also filed a protest petition against the submission of cancellation in the subject FIR No.39 dated 14.06.2016. This fact is not disputed by learned counsel for the petitioner. It is further pointed out that the cancellation report is still pending consideration before the Judicial Magistrate First Class, Batala.

Considering the above, this Court is not inclined to invoke the inherent powers under Section 482 Cr.P.C as the issue is pending before the trial Court. However, it shall be open for the petitioner to press his claim for cognizance before the Court of competent jurisdiction when the cancellation report comes up for consideration.

Disposed off.

(MANOJ BAJAJ)
JUDGE

14.11.2019

vanita	Whether speaking/reasoned :	Yes	No
	Whether Reportable :	Yes	No