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

**CRM-M-15023-2019
Date of decision-01.04.2019**

Gurbaz Singh

....Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. K.B.S.Mann, Advocate for the petitioner.

MANOJ BAJAJ, J.

This petition has been filed under Section 482 of Criminal Procedure Code for quashing of the order dated 25.01.2019 (Annexure P-6) passed by Judicial Magistrate First Class, Malout in case FIR No.60 dated 03.07.2015 registered under Sections 302 and 148 read with Section 149 of Indian Penal Code at Police Station Kabarwala, District Sri Muktsar Sahib.

Learned counsel for the petitioner argued that the Court has committed a serious error in law in ordering re-investigation of the case without examining the cancellation report.

Notice of motion.

At the asking of the Court, Mr. Bhupender Beniwal, AAG, Punjab accepts notice on behalf of the respondent-State. A complete copy of the paper book has been furnished to the learned State counsel, in the Court.

A perusal of the impugned order reveals that the Court has simply taken note of the fact that the offence under Section 302 IPC is non-

compoundable and therefore, proceeded to order re-investigation of the case.

As per the final report submitted by the Investigating Agency, the deceased had died a natural death i.e. as a result of heart attack.

It is clear from the impugned order that the Court has not at all examined the cancellation report and without any assigning reasons has neither rejected the cancellation report or accepted the same, but proceeded to order re-investigation. The cancellation report is on record as Annexure P-2. Apparently, the Court has adopted a very casual approach ignoring the law on the subject as well. The power to re-investigation lies with either the High Court or the Supreme Court.

In view of the judgment passed by Hon'ble the Supreme Court in “*Vinay Tyagi Vs. Irshad Ali @ Deepak and others, 2013 (2) R.C.R (Criminal) 197*”, the impugned order dated 25.01.2019 (Annexure P-6) is set aside and the case is remanded back before the Magistrate to decide afresh after taking into consideration the entire material by passing a speaking order.

Disposed off.

(MANOJ BAJAJ)
JUDGE

01.04.2019

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