

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

246

CRM-M-5326 of 2015 (O&M)
Date of Decision: July 25, 2019

Sarabjit Singh

.....Petitioner

versus

Paramjit Singh @ Pammi and ors.

.....Respondents

CORAM: HON'BLE MR.JUSTICE MANOJ BAJAJ

Present: Mr. Abhijeet Partap, Advocate
for the petitioner.

Mr. Ramdeep Partap Singh, DAG, Punjab.

Mr. S.P.S. Sidhu, Advocate for respondent Nos. 1 to 6.

MANOJ BAJAJ, J. (Oral)

Petitioner-Sarabjit Singh has filed this petition to challenge the order dated 12.11.2014 (Annexure P-3) passed by the Judicial Magistrate Ist Class, Ludhiana, whereby the Court has proceed to dismiss the protest petition under Sections 457, 458, 323, 386, 506, 148, 149 of IPC and Sections 25, 27, 54, 59 of Arms Act, on the ground that after investigation in case FIR No. 119 dated 31.07.2013, cancellation report stands submitted at Police Station Dehlon, District Ludhiana City.

Learned counsel for the petitioner contends that the trial Court fell into an error of law by dismissing the complaint/protest petition only on the ground that cancellation report stands submitted by the Police, because once the protest petition was entertained after filing of the cancellation report, it was incumbent upon the Court to follow the procedure contained in chapter XV of Code of Criminal

Procedure. He contends that after filing of the protest petition, petitioner, adduced pre-summoning evidence and examined 7 witnesses. However, without referring to the deposition of these witnesses, the impugned order was passed, by the trial Court.

Heard learned counsel for the parties.

A perusal of the impugned order dated 12.11.2014 reveals that the trial Court has proceeded to dismiss the protest petition only on the ground that the Police has filed the cancellation report. It is also not disputed by the respondents that complainant had examined as many as 7 witnesses in pre-summoning evidence. The trial Court proceeded to accept the cancellation report, however it has not discussed the depositions of complainant's witnesses before passing the impugned order.

In view of the above, impugned order dated 12.11.2014 (Annexure P-3) is set aside and the case is remanded back to the trial Court to decide the matter afresh by considering the pre-summoning evidence adduced by the complainant, as well.

Disposed off.

July 25, 2019
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[MANOJ BAJAJ]
JUDGE

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