

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

CRM-M No.36548 of 2021

Date of decision : October 05, 2021

Raghubir Singh and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Raahul Dev Singh, Advocate for the petitioners.

Mr. Ramdeep Partap Singh, DAG, Punjab.

Mr. Vishal Munjal, Advocate for respondent No.2.

HARSIMRAN SINGH SETHI J. (ORAL)

Present petition has been filed for quashing of order dated 07.06.2021 (Annexure P-9) passed by Judicial Magistrate 1st Class, Pathankot in FIR No.24, dated 14.03.2016, registered under Sections 324, 323 and 34 IPC, at Police Station Kanwan, District Pathankot, by which, the cancellation report submitted by the police was not accepted and petitioners have been ordered to be proceeded against.

Learned counsel for the petitioners argues that the non-acceptance of the cancellation report submitted by the police was based upon incorrect facts. Noticing the said fact, following order was passed by this Court on 07.09.2021:

“Learned counsel for the petitioners argues that the impugned order dated 07.06.2021 (Annexure P-9) by which, the cognizance of the offence in respect of FIR No.24 dated 14.03.2016 has been taken by the Courts below, is based upon incorrect facts recorded therein. Learned counsel for the petitioner submits that non-submission of

mobile tower location, which has been taken as one of the ground, was duly annexed with the cancellation report and not only this even the opinion of the medical officer that the injuries suffered by the complainant were self inflicted, was also part of the cancellation report.

Notice of motion for 05.10.2021.

Mr. Sandeep Singh Deol, earned Deputy Advocate General, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondents.

Respondent-State of Punjab is directed to file an affidavit giving the correct facts especially whether the mobile tower location of the accused was annexed with the cancellation report or not and whether the opinion of the medical officer was also part of the cancellation report and the said report was appended along with the cancellation application or not.”

After issuance of notice of motion, a status report has been filed wherein, in paragraph 5, following has been mentioned:

“That mobile tower locations of accused were not attached with cancellation report, opinion of medical board declaring injury No.2 as simple in nature and injury No.3 as grievous in nature suffered by Mastana Singh was part of cancellation report alongwith MLR of Mastana Singh was also part of cancellation report.”

Learned State counsel submits that the order impugned in this petition is also revisable, which remedy is still available to the petitioners.

Learned counsel for the petitioners submits that as the petitioners have approached this Court, the limitation of filing revision has already expired but the petitioner is ready to avail the said remedy.

Keeping in view the facts and circumstances of the present case, as the petitioner was pursuing the present remedy, in case the

petitioners avail the remedy of revision petition, the condonation of delay should be considered sympathetically by the Court below

As prayed for, the present petition is allowed to be withdrawn to avail the remedy of revision available to the petitioners.

(HARSIMRAN SINGH SETHI)
JUDGE

October 05, 2021

sarita	
Whether speaking / reasoned	Yes
Whether Reportable:	No