

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

CRM-M-44143-2020 (O&M)

Date of decision: 11.08.2021

Jasveer Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Argued by : Mr. Deepanshu Mehta, Advocate
for the petitioner.

Mr. P.S. Walia, Asstt. AG, Punjab
for respondents No.1 to 3.

Mr. Prabhdeep Singh Bindra, Advocate
for respondent No.4.

Mr. Sumit Jain, Addl. A.G. Haryana
for the State of Haryana.

Mr. Y.S. Rathore, Addl. Public Prosecutor
for U.T., Chandigarh.

ARUN KUMAR TYAGI, J.

(The case was taken up for hearing through video conferencing.)

1. The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for issuance of directions to learned Sub-Divisional Judicial Magistrate, Jagraon to pass an appropriate order on cancellation report bearing No.UCR/13/19 titled as 'State Vs. Jasveer Singh' filed by the police on 17.12.2018 in case FIR No.144 dated 24.09.2016 registered under Sections 148 and 307 read with Section 149 of the Indian Penal Code, 1860 (for short 'the IPC') and Sections 25 and 27 of the Arms Act, 1959 in Police Station Sadar Jagraon, District Ludhiana (Rural).

2. Briefly stated the petition has been filed on the averments

that there was a fight between the petitioner and respondent No.4 and on complaint of respondent No.4 FIR No.144 dated 24.09.2016 was registered under Sections 148 and 307 read with Section 149 of the IPC and Sections 25 and 27 of the Arms Act, 1959 in Police Station Sadar Jagraon, District Ludhiana against the petitioner and on statement of the petitioner FIR No.143 dated 24.06.2016 was registered under Sections 148, 308, 323 and 341 read with Section 149 of the IPC in Police Station Sadar Jagraon, District Ludhiana against respondent No.4. The parties compromised the matter and in view of compromise both the parties filed CRM-45896-2016 and CRM-M-45930-2016 for quashing of the above-said FIRs. However, respondent No.4 did not appear before the trial Court to make statement as respondent No.4 went abroad and proceedings were initiated for declaring him as proclaimed offender. In view of the compromise dated 18.10.2016, the police prepared cancellation report but did not file the same before the concerned Court. The petitioner filed CRM-M-36038-2018 on which this Court vide order dated 26.11.2018 directed respondent No.2-Senior Superintendent of Police, Ludhiana (Rural) to file the cancellation report positively within four weeks. In compliance with order dated 26.11.2018 the police submitted cancellation report on 17.12.2018 before learned Sub-Divisional Judicial Magistrate, Jagraon. Notice was issued to respondent No.4 but the same was received back unserved. Respondent No.4 had also committed some crime in California and his whereabouts are not known. Due to pendency of the cancellation report, the police is not giving clearance certificate to the petitioner for going

abroad.

3. The petitioner has accordingly prayed for issuance of appropriate directions to learned Sub-Divisional Judicial Magistrate, Jagraon to pass appropriate order on the cancellation report.

4. The petition has been contested by respondents No.1 to 3 in terms of status report filed by way of affidavit of Sh. Jatinder Jit Singh, PPS, DSP, Jagraon, District Ludhiana (Rural). In the status report it has been mentioned that the trial Court could not pass any order on the cancellation report as respondent No.4-complainant did not appear before the Court and delay in the disposal of cancellation report lies on the part of respondent No.4-complainant.

5. In the course of hearing of arguments on the present petition on 05.01.2021 it came to the notice of this Court that not only cancellation report submitted in the present case on 17.12.2018 is still pending for disposal but also as per statistical information available with this Court as on 30.11.2020 total 18045 cases, where cancellation/untraced reports have been filed, were pending in the State of Punjab with oldest case being of the year 2009.

6. This Court observed in its order dated 05.01.2021 that due to disposal of cancellation/untraced reports not involving/requiring adjudication of any complicated questions of facts and law or final determination of the questions of guilt or innocence of the accused, there is a legitimate expectation that the same would be disposed of expeditiously. However, thousands of cases involving long delay in filing of cancellation/untraced reports by the police and disposal of the

same by the concerned Judicial Magistrate/Court are pending in the State of Punjab. The cause of justice suffers by delay in filing of cancellation/untraced reports by the Police and disposal of the same by the Courts. This Court also observed that the position was no different in the State of Haryana and UT Chandigarh. Accordingly, this Court vide order dated 05.01.2021 directed the Director Generals of Police, Punjab, Haryana and U.T. Chandigarh to file affidavits giving information regarding the following aspects :-

- (a) District wise and year wise number of cases in which the investigation was pending for more than one year as on 01.01.2021;
- (a) District wise number of cases in which the cancellation/untraced reports have been prepared but have not been approved by the Superior Police Officers as on 01.01.2021;
- (b) District wise number of cases in which the cancellation/untraced reports have been prepared and have also been approved by the Superior Police Officers but have not been filed before the concerned Courts as on 01.01.2021;
- (c) District wise number of Cases in which cancellation/untraced reports have been filed but are pending for disposal by the concerned Courts due to delay in action on the part of the police in serving the Court process as on 01.01.2021;
- (d) What are the common reasons for delay in preparation by the concerned IO/SHO, approval by Superior Police Officers and filing of the same before the concerned Courts; and

- (e) What steps have been taken/are proposed to be taken for remedying the causes of such delay.

7. Reports were also called from the Sessions Judges in the States of Punjab and Haryana and U.T. Chandigarh giving information as to the following aspects:-

- (a) District wise number of Cases in which cancellation/untraced reports had been filed but were pending for disposal before the concerned Courts for more than one year as on 01.01.2021;
- (b) District wise number of Cases in which cancellation/untraced reports were pending for disposal before the concerned Courts for more than one year as on 01.01.2021 due to inaction on the part of the police in serving the Court process;
- (c) What are the reasons for delay in disposal of such cases apart from inaction on the part of the police in serving the Court process; and
- (d) What steps have been taken/are proposed to be taken to expedite the disposal of cases where cancellation/untraced reports have been filed which are pending for more than six months.

8. Further, this Court also observed in its order dated 05.01.2021 that there is practice prevalent at some places of returning the record of cancellation/untraced reports with orders passed thereon to the police or sending the same to Vernacular/Police Record Room but prima facie such cancellation/untraced reports have to be filed under Section 173 (2) of the Cr.P.C. before the concerned Judicial Magistrate having jurisdiction and after passing of the orders the record including the orders passed has to be consigned to the Judicial Record

Room in the same manner in which charge-sheet/challan is filed and on conclusion of proceedings record is consigned to Judicial Record Room as the provisions of the Cr.P.C. governing the same do not make any difference in this regard. Accordingly, this Court directed that information be also sought from the Sessions Judges in the States of Punjab and Haryana and U.T. Chandigarh in this regard as to the practice which is being followed in their Sessions Division.

9. In compliance with order dated 05.01.2021 passed by this Court, the Director Generals of Police, Punjab, Haryana and U.T. Chandigarh have filed their affidavits.

10. The relevant part of the affidavit dated 23.02.2021 filed by Mr. Dinkar Gupta, Director General of Police, Punjab reads as under:-

*“3. That in compliance with the abovesaid order dated 5.1.2021 passed by this Hon'ble Court, information regarding various points has been obtained from the field units and compiled in the office of the Director, Bureau of Investigation, Punjab. Information regarding points (a) to (c) has been compiled in form of chart, a copy of which is annexed alongwith and marked as **ANNEXURE R-1**.*

It is humbly submitted that the issue regarding pendency of cancellation/untraced reports has been regularly monitored by the office of the Director, Bureau of Investigation, Punjab. As per information available with the office of Director, Bureau of Investigation, a total 37,351 cases were pending, as on 31.12.2019, in which cancellation/untraced reports were prepared but not presented to the competent Court(s). Special campaign was launched to reduced the abovesaid pendency. DO letters were written to field units by Sh. Arpit Shukla, IPS, Director, Bureau of Investigation, Punjab mentioning that matter needs urgent attention to reduce the pendency of such cases. As per information, Annexure R-1, obtained from field units, the pendency of such cases as on 01.01.2021 is 25,677 cases. Thus, despite prevalence of Covid-19 pandemic, the State Police has been able to reduce the pendency by more than 10,000 cases.

4. *That in addition to the data, Annexure R-1, the field*

units were directed to intimate the common reasons for delay in preparation of cancellation/untraced reports by the concerned IOs/SHOs, approval by the Superior Police Officers and filing of the same before the concerned Courts. One of the common reasons intimated by the field units is the prevalence of COVID-19 pandemic caused by corona virus. It has been further reported that, in some cases, there is non-cooperation on part of the complainant(s) while putting up cancellation/untraced reports in the concerned Courts, as the complainants do not agree with the investigation of the case.

*5. That as regards to steps that have been taken/are proposed to be taken for remedying the causes of delay in submission of cancellation/untraced reports to the competent Courts, it is humbly submitted that as already mentioned in Para 3 above, efforts have been made to reduce the pendency of such cases. The office of Director, Bureau of Investigation, Punjab is periodically monitoring the pendency of such cases. DO letters have been written and action taken reports have been obtained from the field units targeted to reduce the pendency of such cases. The office of Director, BoI, Punjab, vide letter No.2146-84/SCRB-II/BoI, dated 30.07.2020 had written to all the field units to ensure that all such cases in which untraced/cancellation reports have been prepared, but not presented to the learned Courts, are presented in the competent Courts at the earliest. A copy of the said letter dated 30.07.2020 is annexed herewith and marked **ANNEXURE R-2**. In furtherance thereto, the field units have been directed to send fortnightly reports regarding the pendency of cancellation/untraced reports to the office of Director, Bureau of Investigation, Punjab.*

It is further submitted that during a video-conference meeting held on 8.2.2021 by the deponent, the Commissioners of Police and Senior Superintendents of Police were sensitized about the need to reduce the pendency of such cases and make earnest efforts to submit cancellation/untraced reports in all cases to the competent Courts. It has been intimated by the field units that directions have been given to concerned SHO's/GO's in different meetings to personally look after the issue and to reduce the pendency at the earliest."

11. The relevant part of the affidavit dated 19.03.2021 filed by Mr. Manoj Yadava, Director General of Police, Haryana reads as under:-

“3. That it is submitted that in compliance of above said directions, reports from all the heads of district police in the State have been sought. Accordingly, queries raised by this Hon'ble Court are replied as under:-

a) Reports pertaining to District wise and year wise number of cases in which the investigation is pending for more than one year as on 01.01.2021 have been obtained from the all the districts. 7598 cases were under investigation for more than one year. District wise detail of such cases is annexed as Annexure R-1.

a)(repeated) Reports pertaining to District wise number of cases in which the cancellation/untraced reports have been prepared but have not been approved by the Superior Police Officers as on 01.01.2021 have been obtained from all the districts. 21621 out of 99114 cancellation reports were pending for approval of Senior Officers as on 01.01.2021. Whereas, 44371 out of 244472 untraced reports were pending for approval of Senior Officers on 01.01.2021. District wise detail of such reports is annexed as Annexure R-2.

b) Reports pertaining to District wise number of cases in which the cancellation/untraced reports have been prepared and have also been approved by the Superior Police Officers but have not been filed before the concerned Courts as on 01.01.2021 have been obtained from all the districts. 41147 out of 77493 approved cancellation reports could not be submitted before competent Court of Law. Whereas, 82856 out of 201001 approved untraced reports could not be filed before competent Court of Law. District wise detail of such reports is annexed as Annexure R-3.

c) Reports pertaining to District wise number of Cases in which cancellation/untraced reports have been filed but are pending for disposal by the concerned Courts due to delay in action on the part of the police in serving the Court process as on 01.01.2021 have been obtained from all the districts. 221 cases have been reported in which cancellation report have not been disposed of by the Courts due to delay in action on the part of the police in serving the Court process. Whereas, 152 cases have been reported in which untraced report have not been disposed of by the Courts due to delay in action on the part of the police in serving the Court Process. District wise detail of such cases is annexed as Annexure R-4.

In this regard, it is also pertinent to mention here that the issue related to service of process i.e. summons/warrants is already under consideration of the

Hon'ble High Court in CRR No.1232 of 2020 titled as Sourabh Tonger v/s State of Haryana and Anr. and this office is filing comprehensive reply in said CRR. The State Government has already notified a policy dated 20.02.2020 dealing comprehensively with the issue of service of process issued by the Courts.

4. That it is submitted that answer to the query raised by this Hon'ble Court at point (d) of the order dated 05.01.2021 pertaining to common reasons for delay in preparation by the concerned IO/SHO, approval by Superior Police Officers and filing of the same before the concerned Courts is non-satisfaction of the complainants. Some other reasons conveyed by the field Police Officers are as under:-

(i) The complainants shift their residences and/or start residing in other places/states. Non availability of the complaints leads to delay in writing and submission of Cancellation/Untraced reports.

(ii) Refusal by Court(s) concerned to accept cancellation and untraced reports in the absence of complainant(s).

(iii) In some of the cases untraced/cancellation reports are being presented before the courts concerned and the same are being returned by the Ld. Courts for further investigation or re-investigation due to objections raised by the complainant against such report(s).

(iv) Some Ld. Illaqua Magistrates do not accept more than one cancellation/untraced report in one working day.

(v) Covid-19 Pandemic has also been one reason for increasing pendency of cancellation/untraced reports during the year 2020.

That after examination of the data received from the field units, it is revealed that 1284 out of 7598 cases are pending under investigation up to the year 2017. Therefore, all the heads of District Police have been directed to examine all under-investigation cases pending up to the year 2017 and ensure that investigation in these cases is concluded within the year 2021 to the extent possible.

All the heads of District Police have further been directed to examine all the pending cases under their jurisdiction in which untraced/cancellation reports have not been written by the Investigating Officers/SHOs or have not been approved by the senior officers or have not been submitted in the competent Courts of law. They would

prepare reports in this regard and send to the Police Headquarters on monthly basis and ensure that the pendency is reduced to a minimum....”

12. The relevant part of the affidavit dated 24.02.2021 filed by Mr. Sanjay Baniwal, Director General of Police, Union Territory, Chandigarh reads as under:-

“a) That "District-wise and year-wise number of cases in which the investigation was pending for more than year as on 01.01.2021" As per the reports received from the Police Stations of the city UT/Chandigarh total 508 cases have been found still pending under investigation for the period more than one year.

a) That "District-wise Number of cases in which the cancellation/untraced reports have been prepared but have not been approved the Sr. Police officers as on 01.01.2021" Total 265 untraced reports and 97 cancellation reports have been found to be prepared by the UT Police but not approved by the Sr. officers of Chandigarh Police.

b) That "District-wise Number of cases in which the cancellation/untraced reports have been prepared and have also been approved the Sr. officers but have not been filed before the concerned courts as on 01.01.2021" Total 1390 untraced reports and 312 cancellation reports have been prepared by UT Police and have also been found approved by the Sr. officers of Chandigarh Police but the said reports have not been filed before the concerned courts as on 01.01.2021.

c) That "District-wise Number of cases in which the cancellation/untraced reports have been filed but are pending for disposal by the concerned courts due to delay in action on the part of Police in serving the courts process as on 01.01.2021" Total 483 untraced reports and 74 cancellation reports have been found to be filed but are pending for disposal by the concerned courts as on 01.01.2021.

d) That "What are the common reason for delay in preparation by the concerned IO/SHO, approval by Sr. Police Officers and filing of the same before the concerned court" Normally there is no delay in preparing of cancellation/untraced reports. However, in the last one year there was no physical contact with public/complainant/witnesses. Therefore, some delay occurred.

e) That "What steps have been taken/are proposed to be taken for remedying the causes of such delay" Since the COVID situation have improved, all the I.O.s/SHOs/Unit Incharges have been directed to clear the back-log. All efforts shall be made by the I.O.s for appearance of complainant on the designate date & time fixed by the court. In order cases, all the SHOs & Units Incharges have been directed to prepare cancellation/untraced reports without undue delay."

13. The statistical information furnished by the Director Generals of Police, Punjab, Haryana and U.T. Chandigarh, respectively may also be tabulated as under:-

State of Punjab						
District wise and year wise number of cases in which the investigation was pending for more than one year as on 01.01.2021						
Sr. No .	Commissionerate/ District	Cases pending for more than one year but less than two years	Cases pending for more than two years but less than three years	Cases pending for more than three years but less than four years	Cases pending for more than four years but less than five years	Cases pending for five years or more
1.	Police Commissionerate, Amritsar	957	272	124	82	73
2.	Police Commissionerate, Jalandhar	352	140	33	09	03
3.	Police Commissionerate, Ludhiana	856	247	72	34	23
4.	Amritsar (Rural)	1252	697	400	168	164
5.	Batala	315	123	52	38	43
6.	Gurdaspur	81	31	05	0	02
7.	Tarn-Taran	1134	618	645	62	50
8.	Pathankot	129	19	17	11	06

9.	Jalandhar (Rural)	121	19	04	02	05
10.	Hoshiarpur	632	248	89	21	8
11.	Kapurthala	468	143	70	20	21
12.	Ludhiana (Rural)	133	53	15	03	08
13.	Khanna	81	33	03	0	0
14.	SBS NAGAR	134	21	05	04	01
15.	Patiala	296	87	141	107	886
16.	Sangrur	512	91	66	61	40
17.	Barnala	394	116	18	11	11
18.	Ropar	200	63	13	02	02
19.	SAS Nagar	1196	619	259	133	110
20.	Fatehgarh Sahib	993	41	10	05	16
21.	Ferozepur	795	480	252	93	42
22.	Moga	08	04	02	0	0
23.	Fazilka	701	252	143	62	54
24.	Fridkot	237	69	40	15	21
25.	Bathinda	832	551	369	362	402
26.	Mansa	364	38	03	06	05
27.	Sri Muktsar Sahib	620	308	163	105	76
Total		13793	5383	3013	1416	2072

State of Haryana						
District wise and year wise number of cases in which the investigation was pending for more than one year as on 01.01.2021						
Sr. No.	District	2006	2008	2010	2011	2012
1	Gurugram	0	0	0	0	0
2	Faridabad	0	0	0	0	0
3	Panchkula	0	0	0	0	0
4	Ambala	0	0	0	0	0
5	Yamuna Nagar	0	0	01	0	0
6	Kurukshetra	0	0	0	0	0
7	Karnal	0	0	0	0	0
8	Panipat	0	03	0	0	0
9	Kaithal	0	0	0	0	0
10	Hisar	0	0	0	0	0
11	Sirsa	0	0	0	0	0
12	Jind	0	0	01	0	0
13	Fatehabad	0	0	0	0	01
14	Hansi	0	0	01	0	0
15	Rewari	01	0	0	0	01
16	Palwal	0	0	0	0	0
17	Narnaul	0	0	0	0	0
18	Mewat	0	0	0	0	0
19	Rohtak	0	0	0	0	0
20	Sonipat	0	0	0	0	0
21	Jhajjar	0	0	0	0	0
22	Bhiwani	0	0	0	01	0
23	DDR	0	0	0	01	0
24	GRP	0	0	0	0	0
	Total	1	3	3	2	2

State of Haryana						
District wise and year wise number of cases in which the investigation was pending for more than one year as on 01.01.2021						
Sr. No.	District	2013	2014	2015	2016	2017
1	Gurugram	01	06	60	27	80
2	Faridabad	0	02	06	09	202
3	Panchkula	01	01	0	01	25
4	Ambala	0	0	02	02	04
5	Yamuna Nagar	0	0	0	01	11
6	Kurukshetra	0	0	03	06	03
7	Karnal	0	01	01	0	05
8	Panipat	0	01	25	62	29
9	Kaithal	0	0	02	16	08
10	Hisar	0	02	48	49	128
11	Sirsa	0	0	01	43	53
12	Jind	01	02	03	08	26
13	Fatehabad	0	0	12	04	11
14	Hansi	03	01	03	03	03
15	Rewari	05	05	18	22	26
16	Palwal	0	0	07	03	0
17	Narnaul	0	0	01	13	05
18	Mewat	0	0	06	10	37
19	Rohtak	0	0	03	05	09
20	Sonipat	01	04	02	11	20
21	Jhajjar	0	0	0	01	04
22	Bhiwani	0	0	07	04	03
23	DDR	02	01	02	06	09
24	GRP	0	0	0	02	03
	Total	14	26	221	308	704

State of Haryana					
District wise and year wise number of cases in which the investigation was pending for more than one year as on 01.01.2021					
Sr. No.	District	2018	2019	2020	Total number of cases
1	Gurugram	916	2246	0	3336
2	Faridabad	88	241	0	548
3	Panchkula	69	84	182	363
4	Ambala	25	87	03	123
5	Yamuna Nagar	32	122	0	167
6	Kurukshetra	22	75	0	109
7	Karnal	12	93	0	112
8	Panipat	23	136	0	279
9	Kaithal	17	32	03	78
10	Hisar	51	142	0	420
11	Sirsa	42	100	04	243
12	Jind	33	75	0	149
13	Fatehabad	21	85	0	134
14	Hansi	08	11	0	33
15	Rewari	261	210	0	549
16	Palwal	07	61	0	78
17	Narnaul	23	72	0	114
18	Mewat	56	144	0	253
19	Rohtak	21	92	0	130
20	Sonipat	21	87	04	150
21	Jhajjar	07	40	0	52
22	Bhiwani	18	63	0	96
23	DDR	22	29	0	72
24	GRP	01	03	01	10
	Total	1786	4330	197	7598

U.T. Chandigarh
District wise and year wise number of cases in which the investigation was pending for more than one year as on 01.01.2021
508 cases are pending under investigation for the period of more than one year.

State of Punjab				
Cancellation reports/untraced reports pending for approval by the Superior Officers/filing in the Courts/disposal by the Courts				
Sr. No.	Commissionerate/ District	District wise number of cases in which the cancellation/ untraced reports have been prepared but have not been approved by the Superior Police Officers	District wise number of cases in which the cancellation/ untraced reports have been prepared and have also been approved by the Superior Police Officers but have not been filed before the concerned Courts	District wise number of cases in which the cancellation/ untraced reports have been filed but are pending for disposal by the concerned Courts due to delay in action on the part of the police in serving the Court process
1.	Police Commissionerate, Amritsar	577	264	1852
2.	Police Commissionerate, Jalandhar	108	792	83
3.	Police Commissionerate, Ludhiana	241	471	1229
4.	Amritsar (Rural)	1304	389	98
5.	Batala	618	156	0
6.	Gurdaspur	06	335	83
7.	Tarn-Taran	1015	456	200
8.	Pathankot	91	40	111
9.	Jalandhar (Rural)	242	386	122
10.	Hoshiarpur	117	370	595
11.	Kapurthala	1282	391	740
12.	Ludhiana (Rural)	531	493	0
13.	Khanna	22	866	285
14.	SBS NAGAR	161	234	61
15.	Patiala	219	58	1212
16.	Sangrur	04	406	21
17.	Barnala	555	203	149
18.	Ropar	65	761	0
19.	SAS NAGAR	0	1025	668
20.	Fatehgarh Sahib	22	300	0
21.	Ferozepur	783	682	87
22.	Moga	235	122	0
23.	Fazilka	951	352	64
24.	Fridkot	172	327	483
25.	Bathinda	3014	134	0
26.	Mansa	484	95	85
27.	Sri Muktsar Sahib	1053	278	441
Total		13872	10386	8669

State of Haryana				
Cases in which the cancellation reports have been prepared and approved and cancellation reports prepared but not approved by the Superior Police Officers as on 01.01.2021				
Sr. No.	District	Total number of cases in which cancellation reports have been prepared	Total number of cases in which cancellation reports have been prepared and approved by the Superior Police officers	Total number of cases in which cancellation reports have been prepared but not approved by the Superior Police officers
1	Gurugram	5758	5367	391
2	Faridabad	5787	4889	898
3	Panchkula	2378	1487	891
4	Ambala	2809	2057	752
5	Yamuna Nagar	5043	2640	2403
6	Kurukshetra	2573	2204	369
7	Karnal	6237	4230	2007
8	Panipat	5539	4296	1243
9	Kaithal	5135	5061	74
10	Hisar	5642	3096	2546
11	Sirsa	3110	2604	506
12	Jind	5799	5522	277
13	Fatehabad	1985	974	1011
14	Hansi	1172	665	507
15	Rewari	1715	1699	16
16	Palwal	4707	4627	80
17	Narnaul	1499	1495	04
18	Mewat	1885	1540	345
19	Rohtak	10767	9501	1266
20	Sonipat	8873	6252	2621
21	Jhajjar	3325	3315	10
22	Bhiwani	4912	1954	2958
23	DDR	1486	1069	417
24	GRP	978	949	29
	Total	99114	77493	21621

State of Haryana				
Cases in which the untraced reports have been prepared and approved and untraced reports have prepared but not approved by the Superior Police Officers as on 01.01.2021				
Sr. No.	District	Total number of cases in which untraced reports have been prepared	Total number of cases in which untraced reports have been prepared and approved by the Superior Police Officers	Total number of cases in which untraced reports have been prepared but not approved by the Superior Police Officers
1	Gurugram	28468	27223	1245
2	Faridabad	14668	13073	1595
3	Panchkula	4696	3063	1633
4	Ambala	4936	3515	1421
5	Yamuna Nagar	12519	5981	6538
6	Kurukshetra	2960	2245	715
7	Karnal	12855	7265	5590
8	Panipat	9342	7432	1910
9	Kaithal	11104	11052	52
10	Hisar	7985	4321	3664
11	Sirsa	5032	4576	456
12	Jind	16367	15868	499
13	Fatehabad	2147	1075	1072
14	Hansi	1958	1325	633
15	Rewari	12233	12134	99
16	Palwal	12079	11964	115
17	Narnaul	2433	2427	06
18	Mewat	3551	3107	444
19	Rohtak	22955	20881	2074
20	Sonipat	26219	19078	7141
21	Jhajjar	6665	5906	759
22	Bhiwani	8698	3296	5402
23	DDR	2714	1805	909
24	GRP	11888	11489	399
	Total	244472	200101	44371

State of Haryana				
Number of cases in which the cancellation reports have been prepared and have also been approved by the Superior Police Officers but have been/have not been filed before the concerned Courts as on 01.01.2021				
Sr. No.	District	Total number of cases in which cancellation reports have been prepared and approved by Superior Police Officers	Total number of cases in which cancellation reports have been prepared and approved by the Superior Police officers and also filed in Court	Total number of cases in which cancellation reports have been prepared and approved by the Superior Police officers but not filed in Court
1	Gurugram	5367	3375	1992
2	Faridabad	4889	1685	3204
3	Panchkula	1487	474	1013
4	Ambala	2057	645	1412
5	Yamuna Nagar	2640	1092	1548
6	Kurukshetra	2204	822	1382
7	Karnal	4230	3024	1206
8	Panipat	4296	536	3760
9	Kaithal	5061	3205	1856
10	Hisar	3096	948	2048
11	Sirsa	2604	764	1840
12	Jind	5522	3733	1789
13	Fatehabad	974	238	736
14	Hansi	665	494	171
15	Rewari	1699	238	1461
16	Palwal	4627	2329	2298
17	Narnaul	1495	603	892
18	Mewat	1540	1134	406
19	Rohtak	9501	5133	4368
20	Sonipat	6252	4050	2202
21	Jhajjar	3315	786	2529
22	Bhiwani	1954	37	1917
23	DDR	1069	278	791
24	GRP	949	723	226
	Total	77493	36346	41147

State of Haryana				
Number of cases in which the untraced reports have been prepared and have also been approved by the Superior Police Officers but have been/ have not been filed before the concerned Courts as on 01.01.2021				
Sr. No.	District	Total number of cases in which untraced reports have been prepared and approved by Superior Police Officers	Total number of cases in which untraced reports have been prepared and approved by the Superior Police officers and also filed in Court	Total number of cases in which untraced reports have been prepared and approved by the Superior Police officers but not filed in Court
1	Gurugram	27223	19867	7356
2	Faridabad	13073	4864	8209
3	Panchkula	3063	1009	2054
4	Ambala	3515	2054	1461
5	Yamuna Nagar	5981	2461	3520
6	Kurukshetra	2245	983	1262
7	Karnal	7265	7265	0
8	Panipat	7432	2149	5283
9	Kaithal	11052	6983	4069
10	Hisar	4321	1881	2440
11	Sirsa	4576	789	3787
12	Jind	15868	11841	4027
13	Fatehabad	1075	136	939
14	Hansi	1325	1070	255
15	Rewari	12134	7042	5092
16	Palwal	11964	7503	4461
17	Narnaul	2427	1002	1425
18	Mewat	3107	2095	1012
19	Rohtak	20881	12518	8363
20	Sonipat	19078	13339	5739
21	Jhajjar	5906	2226	3680
22	Bhiwani	3296	01	3295
23	DDR	1805	295	1510
24	GRP	11489	7872	3617
	Total	200101	117245	82856

U.T. Chandigarh			
Number of cases in which the cancellation reports have been prepared and have also been approved by the Superior Police Officers but have been/have not been filed before the concerned Courts as on 01.01.2021			
District	Total number of cases in which cancellation reports have been prepared but not approved by Superior Police Officers	Total number of cases in which cancellation reports have been prepared and approved by the Superior Police officers but not filed in Court	Total number of cases in which cancellation reports have been filed in Court but which are pending for disposal by the concerned Courts
Chandigarh	97	312	74

U.T. Chandigarh			
Number of cases in which the untraced reports have been prepared and have also been approved by the Superior Police Officers but have been/ have not been filed before the concerned Courts as on 01.01.2021			
District	Total number of cases in which untraced reports have been prepared but not approved by Superior Police Officers	Total number of cases in which untraced reports have been prepared and approved by the Superior Police officers but not filed in Court	Total number of cases in which untraced reports have been filed in Court but which are pending for disposal by the concerned Courts
Chandigarh	265	1390	483

14. In compliance of order dated 05.01.2021, reports have also been sent by learned District and Sessions Judges from the States of Punjab and Haryana and U.T., Chandigarh who have also mentioned causes of delay in disposal of cancellation/untraced reports, steps taken/proposed to be taken for expediting disposal of cancellation/untraced reports and practices followed regarding consignment of record which may be summarized as under:-

Causes of delay in disposal of cancellation/untraced reports

Causes of delay in disposal of cancellation/untraced reports have been mentioned in detail in the reports which are summarized as under:-

1. Non-functioning/restricted functioning of Courts due to lock-down/restrictions imposed to prevent spread of Covid-19.
2. Delay in service of notice/failure to serve notice on complainant (hereinafter referred to as 'first informant-complainant' as notice is required to be given to the first informant who is usually referred to as complainant) due to incorrect/incomplete address or the first informant-complainant having left without address or the first informant-complainant residing abroad.
3. Time taken by police in producing documents in support of cancellation/untraced report.
4. Delay in filing of protest petition/complaint, leading evidence and addressing arguments on the part of the first informant-complainant.
5. Filing of petition by the first informant-complainant for transfer of investigation to some other independent agency/specially constituted team and stay of proceedings by this Court/Supreme Court.
6. Seeking of repeated adjournments for arguments by Counsel for the first informant-complainant.

Steps taken/proposed to be taken for expediting disposal of cancellation/untraced reports

Steps taken/proposed to be taken for expediting disposal of cancellation/untraced reports have been mentioned in the reports which are summarized as under:-

1. Giving of prior intimation to the first informant-complainant regarding filing of cancellation/untraced report by the police.
2. Service of notice on first informant-complainant through SHO of the concerned Police Station/Investigating Officer of the case or directing SHO of the concerned Police Station/Investigating Officer of the case to produce the first informant-complainant or deputing special staff for effecting service of notice on first informant-complainant.
3. Service of process on the first informant-complainant through electronic media-email, whatsapp etc.
4. Recording of statement of the first informant-complainant through video conferencing where first informant-complainant is residing abroad.
5. Grant of short adjournments for ensuring early disposal of the cancellation reports/untraced reports.
6. In the monthly meeting the data in connection with cancellation/untraced reports be examined and discussed and the Judicial Officers be asked to give special attention to disposal of cases of this category.
7. Taking up cancellation/untraced reports for disposal in Lok

Adalat.

Practices followed regarding consignment of record

Different practices were being followed in different Sessions Divisions which may be summarized as under:-

1. Accepted cancellation/untraced reports are consigned to the judicial record room. Rejected cancellation/untraced reports are returned to concerned IO/SHO of the concerned Police station for investigation.
2. On disposal of cancellation/untraced reports whether accepted or rejected original orders, statements, summons and photocopies of cancellation/untraced reports are consigned to the judicial record room and original police papers are returned to the police officials.
3. Entire record is consigned to the judicial record room.
4. Police files are given to the police and judicial files are consigned to the judicial record room.
5. Files of Untraced Reports are returned to the police. Files of Cancellation reports accepted are consigned to the judicial record room. In cases of cancellation reports in which protest petitions are filed entire record is retained with the protest petition and consigned to the judicial record room with the same.

Statistical information furnished by learned District and Sessions Judges from the States of Punjab and Haryana and U.T., Chandigarh along with their reports

15. The statistical information furnished by learned District

and Sessions Judges from the States of Punjab and Haryana and U.T.,
Chandigarh alongwith their reports may also be tabulated as under:-

State of Punjab			
Sr. No.	Name of the District	District wise number of cases in which cancellation/untraced reports had been filed but were pending for disposal before the concerned Courts for more than one year	District wise number of cases in which cancellation/untraced reports had been filed but were pending for disposal before the concerned Courts for more than one year due to inaction on the part of the police in serving the Court process.
1.	Amritsar	612	585
2.	Barnala	22	7
3.	Bathinda	116	92
4.	Faridkot	26	20
5.	Fatehgarh Sahib	46	21
6.	Fazilka	81	26
7.	Ferozepur	19	12
8.	Gurdaspur	201	70
9.	Hoshiarpur	52	23
10.	Jalandhar	406	373
11.	Kapurthala	77	61
12.	Ludhiana	1087	700
13.	Mansa	20	11
14.	Moga	62	36
15.	Pathankot	55	40
16.	Patiala	97	24
17.	Rupnagar	81	32
18.	SAS Nagar	249	120
19.	Sangrur	79	29
20.	SBS Nagar	24	9
21.	Sri Muktsar Sahib	57	13
22.	Tarn Taran	63	31

State of Haryana			
Sr. No.	Name of the District	District wise number of cases in which cancellation/untraced reports had been filed but were pending for disposal before the concerned Courts for more than one year	District wise number of cases in which cancellation/untraced reports had been filed but were pending for disposal before the concerned Courts for more than one year due to inaction on the part of the police in serving the Court process.
1.	Ambala	50	16
2.	Bhiwani	80	37
3.	Fatehabad	15	5
4.	Faridabad	90	1
5.	Gurugram	399	291
6.	Hisar	22	1
7.	Jhajjar	2	7
8.	Jind	662	650
9.	Kurukshetra	582	298
10.	Kaithal	443	98
11.	Karnal	463	429
12.	Mewat	641	621
13.	Narnaul	43	14
14.	Palwal	162	1
15.	Panchkula	23	13
16.	Panipat	119	102
17.	Rewari	11	1
18.	Rohtak	31	17
19.	Sirsa	36	1
20.	Sonipat	51	33
21.	Yamuna Nagar	132	109

U.T. Chandigarh		
Sr. No.	District wise number of cases in which cancellation/untraced reports had been filed but were pending for disposal before the concerned Courts for more than one year	District wise number of cases in which cancellation/untraced reports had been filed but were pending for disposal before the concerned Courts for more than one year due to inaction on the part of the police in serving the Court process.
1.	252	116

Statistical information furnished by learned District and Sessions Judges from the States of Punjab and Haryana and U.T., Chandigarh along with monthly statements.

16. The statistical information furnished by learned District and Sessions Judges from the States of Punjab and Haryana and U.T., Chandigarh to this Court alongwith monthly statements may also be tabulated as under:-

PENDENCY OF UNTRACED OR CANCELLATION CASES FOR THE MONTH OF DECEMBER 2020 IN THE STATE OF PUNJAB					
District	Previous Balance as on 01.12.2020	Institution/ Received by transfer	Disposal/ Transferred	Pendency as on 31.12.2020	Increase/ Decrease
Amritsar	3100	422	714	2808	-292
Barnala	234	194	310	118	-116
Bathinda	668	182	142	708	40
Faridkot	488	118	115	491	3
Fatehgarh Sahib	383	42	110	315	-68
Fazilka	193	207	214	186	-7
Ferozepur	92	130	106	116	24
Gurdaspur	931	109	95	945	14
Hoshiarpur	785	84	268	601	-184

District	Previous Balance as on 01.12.2020	Institution/ Received by transfer	Disposal/ Transferred	Pendency as on 31.12.2020	Increase/ Decrease
Jalandhar	1448	1025	1010	1463	15
Kapurthala	329	158	250	237	-92
Ludhiana	5522	473	1037	4958	-564
Mansa	128	120	154	94	-34
Moga	470	229	149	550	80
Pathankot	223	38	142	119	-104
Patiala	535	280	420	395	-140
Rupnagar	115	26	28	113	-2
SAS Nagar	1079	346	388	1037	-42
Sangrur	621	352	608	365	-256
SBS Nagar	86	125	152	59	-27
Sri Muktsar Sahib	470	82	120	432	-38
Tarn Taran	147	93	79	161	14
Total	18047	4835	6611	16271	-1776

PENDENCY OF UNTRACED OR CANCELLATION CASES FOR THE MONTH OF DECEMBER 2020 IN THE STATE OF HARYANA					
District	Previous Balance as on 01.12.2020	Institution/ Received by transfer	Disposal/ Transferred	Pendency as on 31.12.2020	Increase/ Decrease
Ambala	211	344	363	192	-19
Bhiwani	96	1996	1988	104	8
Faridabad	568	1838	1417	989	421
Fatehabad	44	10	10	44	0
Gurugram	597	483	513	567	-30
Hisar	39	13	14	38	-1
Jhajjar	18	20	20	18	0
Jind	796	566	565	797	1
Kurukshetra	809	26	0	835	26
Kaithal	1436	297	818	915	-521

District	Previous Balance as on 01.12.2020	Institution/ Received by transfer	Disposal/ Transferred	Pendency as on 31.12.2020	Increase/ Decrease
Karnal	859	574	525	908	49
Narnaul	139	532	531	140	1
Nuh	813	753	721	845	32
Palwal	204	10	12	202	-2
Panchkula	44	5	3	46	2
Panipat	330	21	19	332	2
Rewari	23	610	608	25	2
Rohtak	37	361	357	41	4
Sonipat	65	553	404	214	149
Sirsa	54	22	19	57	3
Yamuna Nagar	277	108	206	179	-98
Total	7459	9142	9113	7488	29

PENDENCY OF UNTRACED OR CANCELLATION CASES FOR THE MONTH OF DECEMBER 2020 IN U.T.CHANDIGARH					
District	Previous Balance as on 01.12.2020	Institution/ Received by transfer	Disposal/ Transferred	Pendency as on 31.12.2020	Increase/ Decrease
Chandigarh	369	14	8	375	6

(Untraced or cancellation) year-wise pendency December, 2020 (Punjab)						
District	2009	2010	2011	2012	2013	2014
Amritsar					2	4
Barnala						
Bathinda						
Faridkot						
Fatehgarh Sahib						1
Fazilka						
Ferozepur						

District	2009	2010	2011	2012	2013	2014
Gurdaspur						
Hoshiarpur						
Jalandhar				1	0	1
Kapurthala						
Ludhiana	2	2	4	3	3	13
Mansa						
Moga						1
Pathankot					1	0
Patiala						1
Rupnagar						
SAS Nagar						
Sangrur						
SBS Nagar						
Sri Muktsar Sahib						
Tarn Taran						
Total	2	2	4	4	6	21

(Untraced or cancellation) year-wise pendency December, 2020 (Punjab)							
District	2015	2016	2017	2018	2019	2020	Total
Amritsar	1	3	21	47	478	2252	2808
Barnala			1	3	21	93	118
Bathinda			5	27	104	572	708
Faridkot			3	11	28	449	491
Fatehgarh Sahib	2	4	5	9	53	241	315
Fazilka			4	11	66	105	186
Ferozepur				3	24	89	116
Gurdaspur	3	6	12	26	218	680	945
Hoshiarpur		1	2	7	44	547	601
Jalandhar	3	3	5	56	329	1065	1463
Kapurthala	1	2	3	10	40	181	237
Ludhiana	8	20	43	143	431	4286	4958
Mansa			1	2	18	73	94
Moga	0	1	2	6	42	498	550

District	2015	2016	2017	2018	2019	2020	Total
Pathankot	0	1	1	6	52	58	119
Patiala	1	4	15	14	77	283	395
Rupnagar			3	6	71	33	113
SAS Nagar		3	2	17	232	783	1037
Sangrur				1	82	282	365
SBS Nagar		1	1	5	14	38	59
Sri Muktsar Sahib			1	5	43	383	132
Tarn Taran			3	17	47	94	161
Total	19	49	133	432	2514	13085	16271

Yearwise pendency of untraced or cancellation cases as on 31.12.2020 in the State of Haryana							
District	2011	2012	2013	2014	2015	2016	2017
Ambala					4	3	7
Bhiwani						2	9
Fatehabad							2
Faridabad							6
Gurugram							36
Hisar							1
Jhajjar							
Jind						4	91
Kaithal							3
Karnal				5	17	28	41
Kurukshetra					1	11	24
Narnaul						1	2
Nuh					10	10	54
Palwal				1	2	2	17
Panchkula	1	1	0	0	0	0	1
Panipat			1		0	15	29
Rewari							1
Rohtak							3
Sirsa			1	0	1	4	8
Sonipat						10	14
Yamuna Nagar					2	0	5
Total	1	1	2	6	37	90	354

Yearwise pendency of untraced or cancellation cases as on 31.12.2020 in the State of Haryana				
District	2018	2019	2020	Total
Ambala	22	30	126	192
Bhiwani	19	50	24	104
Fatehabad	0	13	29	44
Faridabad	46	53	884	989
Gurugram	121	182	228	567
Hisar	4	17	16	38
Jhajjar	1	6	11	18
Jind	19	548	135	797
Kaithal	7	428	477	915
Karnal	45	327	445	908
Kurukshetra	104	442	253	835
Narnaul	7	33	97	140
Nuh	256	329	186	845
Palwal	30	112	38	202
Panchkula	5	15	23	46
Panipat	34	43	210	332
Rewari	2	8	14	25
Rohtak	7	15	16	41
Sirsa	1	22	20	57
Sonipat	11	19	160	214
Yamuna Nagar	63	64	45	179
Total	804	2756	3437	7488

(Untraced or cancellation) year-wise pendency December, 2020 (U.T. Chandigarh)								
District	2014	2015	2016	2017	2018	2019	2020	Total
Chandigarh	2	7	45	19	50	174	78	375

17. During pendency of the petition, the petitioner filed on 28.06.2021/re-filed on 05.07.2021 CRM-18673-2021 seeking interim direction to the Court of Sub Divisional Judicial Magistrate, Jagraon to record the statement of respondent No.4-complainant in the case of

cancellation report.

18. I have heard arguments addressed by Mr. Deepanshu Mehta, learned Counsel for the petitioner, Mr. P.S. Walia, Asstt. AG, Punjab, learned State Counsel for respondents No.1 to 3, Mr. Prabhdeep Singh Bindra, learned Counsel for respondent No.4, Mr. Sumit Jain, Addl. A.G. Haryana and Mr. Y.S. Rathore, Addl. Public Prosecutor for U.T., Chandigarh and gone through the relevant record.

19. Some of the fundamental issues raised and questions posed to this Court, in the context of the sordid State of affairs prevailing in the States of Punjab and Haryana and U.T.Chandigarh warranting intervention by this Court in exercise of inherent powers under Section 482 of the Cr.P.C., may be highlighted before adverting to the nature, purport and purpose of the proceedings initiated and relief sought by the petitioner in the factual matrix of the case.

20. Delay in initiation and completion of investigation and even filing of cancellation/untraced reports by the police and disposal thereof by the Courts/Magistrates causes problems to the first informant-complainant as well as accused and even third persons some instances of which may be illustratively noticed as under:-

1. Even when information is promptly given by the first informant-complainant to the police regarding commission of cognizable offence, the police delays lodging of FIR on the pretext of conducting preliminary inquiry which remains pending for months/years. Even after registration of FIR, the police delays investigation, does not conduct

prompt/proper investigation and fails to collect material evidence.

2. Even any complaint filed by the first informant-complainant aggrieved by police inaction in investigation of FIR lodged by him is liable to be stayed under Section 210 of the Cr.P.C. during the period investigation is pending.
3. Where in the course of investigation movable property of the accused is seized, his passport is taken or his bank account is frozen by the police, restriction is imposed on travel abroad or no objection is denied by the police to issuance of passport or travel abroad on the ground of FIR being under investigation, delay in investigation results in untold miseries.
4. Where complaint under Section 182 of the IPC is filed against the first informant-complainant on the ground of preparation of cancellation report and information furnished by him to the police being false and cognizance is also taken and first informant-complainant is summoned as accused to face trial even before the cancellation report is approved by the Superior Police Officers concerned and is presented before the Court/Magistrate question of legality of such action also arises as on subsequent presentation of the cancellation report, the Court/Magistrate may reject cancellation report filed by the

police and order further investigation or take cognizance and issue process against the accused on the basis of protest petition/complaint filed by the first informant-complainant.

5. Any registered owner of insured vehicle stolen by unknown person is not paid compensation by the Insurance Company till the untraced report is presented by the police and accepted by the Magistrate.

Will not any unreasonable delay in investigation and even filing of cancellation/untraced reports by the police and disposal thereof by the Courts/Magistrates cause unreasonable inconvenience/harassment and irreparable/avoidable loss to them ? Does the law clothe them with appropriate remedies against the same?

21. Some of the material questions which arise for consideration may be enlisted as follows:-

- (i) Whether the Officer-in-charge of the police station is bound to register FIR on receipt of oral or written information in respect of any cognizable offence?
- (ii) Whether Complainant/Victim of an offence has any fundamental right to access of justice?
- (iii) Is there any duty of Police to take prompt action for expeditious investigation of cases and completing investigation within reasonable time?
- (iv) Is there any obligation on the Court for ensuring that the investigation is conducted in accordance with law?

- (v) What are the remedies available to the complainant/victim of a crime during investigation?
- (vi) What action can be taken by the police on completion of investigation?
- (vii) Whether the Officer-in-charge of a Police Station is under any obligation to communicate to the first informant-complainant the action taken by him?
- (viii) Is giving notice of cancellation/untraced reports to the first informant-complainant mandatory?
- (ix) Is giving notice of cancellation/untraced report to the injured person or relative of deceased also required?
- (x) What are the powers of the Court/Magistrate in dealing with cancellation/untraced reports?
- (xi) Whether the Court/Magistrate can order investigation by Central Bureau of Investigation ?
- (xii) Whether the Court/Magistrate has power to call upon the police to submit a charge-sheet?
- (xiii) Whether the Court/Magistrate can order re-investigation/fresh investigation of the case by the Police?
- (xiv) Whether complaint can be filed and proceeded with during the period when investigation by the police on FIR lodged regarding same offences subject matter of the complaint is pending?
- (xv) Whether complaint can be filed by the first informant-complainant after cancellation report has been prepared but

is not filed before the Court?

(xvi) Whether the first informant-complainant can file complaint regarding the same occurrence after filing of cancellation report by the police and its acceptance by the Court/Magistrate?

(xvii) Is there any requirement of law for filing of cancellation/untraced report by the police and disposal thereof by the Court/Magistrate within reasonable time?

(xviii) Whether Cancellation Reports and Untraced Reports can be filed by the police on the basis of compromise between the parties and can be referred to Lok Adalat?

(xix) Whether the record of cancellation/untraced reports is to be consigned to the judicial record room or police/vernacular record room?

(xx) Whether any directions are required to be issued by this Court in exercise of powers under Section 482 of the Cr.P.C. if so to whom and to what effect?

22. In order to deal with the issues highlighted and the questions involved in the case reference to the relevant statutory provisions is essential.

23. Section 154 of the Cr.P.C., which provides for information in cognizable cases, reads as under:-

“154. Information in cognizable cases-(1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read Over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be

signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf:

Provided that if the information is given by the woman against whom an offence under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB, section 376E or section 509 of the Indian Penal Code (45 of 1860) is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

Provided further that-

(a) in the event that the person against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB, section 376E or section 509 of the Indian Penal Code (45 of 1860) is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be;

(b) the recording of such information shall be videographed;

(c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section(5A) of section 164 as soon as possible.

(2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant.

(3) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in subsection (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence.”

24. Section 155 of the Cr.P.C., which provides for information as to non-cognizable cases and investigation of such cases, reads as under:-

“155. Information as to non-cognizable cases and investigation of such cases.-(1) When information is given to an officer in charge of a police station of the commission within the limits of such station of a non- cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be kept by such officer in such form as the State Government may prescribe in this behalf, and refer the informant to the Magistrate.

(2) No police officer shall investigate a non- cognizable case without the order of a Magistrate having power to try such case or commit the case for trial.

(3) Any police officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police station may exercise in a cognizable case.

(4) Where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are non-cognizable.”

25. Section 156 of the Cr.P.C., which provides for Police Officer's power to investigate cognizable case, reads as under:-

“156. Police officer's power to investigate cognizable case.- (1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned.”

26. Section 157 of the Cr.P.C., which provides for procedure for investigation, reads as under:-

“157. Procedure for investigation preliminary inquiry.-(1) If, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the State Government may, by general or special order, prescribe in this behalf, to proceed, to the spot, to investigate the facts and

circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender;

Provided that-

(a) when information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police station need not proceed in person or depute a subordinate officer to make an investigation on the spot;

(b) if it appears to the officer in charge of a police station that there is no sufficient ground for entering on an investigation, he shall not investigate the case:

Provided further that in relation to an offence of rape, the recording of statement of the victim shall be conducted at the residence of the victim or in the place of her choice as far as practicable by a woman police officer in the presence of her parents or guardian or near relatives or social worker of the locality.

(2) In each of the cases mentioned in clauses (a) and (b) of the proviso to sub-section (1), the officer in charge of the police station shall state in his report his reasons for not fully complying with the requirements of that sub-section, and, in the case mentioned in clause (b) of the said proviso, the officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the State Government, the fact that he will not investigate the case or cause it to be investigated.”

27. Section 169 of the Cr.P.C., which provides for release of accused when evidence deficient, reads as under:-

“169. Release of accused when evidence deficient.-*If, upon an investigation under this Chapter, it appears to the officer in charge of the police station that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police report, and to try the accused or commit him for trial.”*

28. Section 170 of the Cr.P.C., which provides for cases to be sent to Magistrate when evidence is sufficient, reads as under:-

“170. Cases to be sent to Magistrate, when evidence is sufficient.-*(1) If, upon an investigation under this Chapter, it appears to the officer in charge of the police station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate*

empowered to take cognizance of the offence upon a police report and to try the accused or commit him for trial, or, if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

(2) When the officer in charge of a police station forward an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the facts and circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

(3) If the Court of the Chief Judicial Magistrate is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons.

(4) The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.”

29. Section 173 of the Cr.P.C., which provides for report of Police Officer on completion of investigation, reads as under:-

“173. Report of police officer on completion of investigation.-

(1) Every investigation under this Chapter shall be completed without unnecessary delay.

(1A) The investigation in relation to an offence under sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E of the Indian Penal Code (45 of 1860) shall be completed within two months from the date on which the information was recorded by the officer in charge of the police station.

(2) (i) As soon as it is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government, stating-

(a) the names of the parties;

(b) the nature of the information;

(c) the names of the persons who appear to be acquainted with the circumstances of the case;

(d) whether any offence appears to have been committed and, if so, by whom;

(e) whether the accused has been arrested;

(f) whether he has been released on his bond and, if so, whether with or without sureties;

(g) whether he has been forwarded in custody under section 170.

(h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E of the Indian Penal Code (45 of 1860).

(ii) The officer shall also communicate, In such manner as may be prescribed by the State Government, the action taken by him, to the person, if any, by whom the information relating to the commission of the offence was first given.

(3) Where a superior officer of police has been appointed under section 158, the report shall, in any case in which the State Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police station to make further investigation,

(4) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order- for the discharge of such bond or otherwise as he thinks fit.

(5) When such report is in respect of a case to which section 170 applies, the police officer shall forward to the Magistrate alongwith the report-

(a) all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation;

(b) the statements-recorded under section 161 of all the persons whom the prosecution proposes to examine as its witnesses.

(6) If the police officer is of opinion that any part of any such statement is not relevant to the subject-matter of the proceedings or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interest, he shall indicate that part of the statement and append a note requesting the Magistrate to exclude that part from the copies to be granted to the accused and stating his reasons for making such request.

(7) Where the police officer investigating the case finds it convenient so to do, he may furnish to the accused copies of all or any of the documents referred to in sub- section (5).

(8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports

regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2)."

Efficient system of administration of criminal justice is essential to maintenance of rule of law and also for democracy's very life.

30. "Nothing rankles more in the human heart than a brooding sense of injustice. Illness we can put up with. But, injustice makes us want to pull things down. When only the rich can enjoy the law, as a doubtful luxury, and the poor, who need it most, cannot have it because its expense puts it, beyond their reach, the threat to the continued existence of a free democracy is not imaginary but very real, because democracy's very life depends upon making the machinery of justice so effective that every citizen shall believe in and benefit by its impartiality and fairness." These observations made by Brennan J. highlight the essentiality of maintenance of rule of law ensuring justice to all for survival of a democracy.

31. "We, the People of India" unequivocally, unreservedly expressed in unqualified terms in the Preamble to the Constitution of India the solemn resolve "to secure to all its citizens justice-social, economic and political". To what extent "We, the People of India" have succeeded in implementing this resolve to make the same a reality and redeeming our pledge to posterity in the march of destiny since independence is the question which we have to consider and answer? We have also to realize that, as commented by Martin Luthar King Junior, "injustice anywhere is threat to justice every where. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly."

32. In *All India Judges' Association Vs. Union of India* : **1992 (1) SCC 119** Hon'ble Supreme Court also observed that dispensation of justice is an inevitable feature in any civilised society. Maintenance of law and order requires the presence of an efficient system of administration of criminal justice.

33. Efficiency of administration of criminal justice is dependent solely on efficacy of its judicial and executive process and majesty of rule of law is seriously undermined by abuse of process or defiance/non-compliance of statutory provisions or court orders, deliberate or otherwise by any instrumentality of State/authority executive, judicial or quasi judicial.

(i) Whether the Officer-in-charge of the police station is bound to register FIR on receipt of oral or written information in respect of any cognizable offence?

34. In *Lalita Kumari Vs. Government of U.P. and others* : **2013(4) R.C.R. (Criminal) 979** Hon'ble Supreme Court observed as under:-

“111) In view of the aforesaid discussion, we hold:

i) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

ii) If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.

iv) The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if

information received by him discloses a cognizable offence.

v) The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

vi) As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

a) Matrimonial disputes/ family disputes

b) Commercial offences

c) Medical negligence cases

d) Corruption cases

e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry. vii) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry. viii) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above.”

35. The above said order was partly modified by Hon'ble Supreme Court vide order dated 05.03.2014 passed on ***Crl. M.P. No.5029 of 2014 in Writ Petition (Criminal) No.68 of 2008*** which reads as under:-

“After hearing him and in the light of the grievance expressed in the present criminal miscellaneous petition filed in the writ petition, we modify clause (vii) of paragraph 111 of our judgment dated 12th November, 2013, in the following manner:-

“(vii) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time bound and in any case it should not exceed fifteen days generally and in exceptional cases, by giving adequate reasons, six weeks time is provided. The fact of such delay and the cause of it must be reflected in the General Diary entry.””

(ii) Whether Complainant/Victim of an offence has any fundamental right to access of justice?

36. In *Imtiyaz Ahmad Vs. State of Uttar Pradesh and others* : **2012(2) RCR (Criminal) 1** Hon'ble Supreme Court observed that a person's access to justice is a guaranteed fundamental right under the Constitution and particularly Article 21. Denial of this right undermines public confidence in the justice delivery system and incentivises people to look for short-cuts and other fora where they feel that justice will be done quicker. In the long run, this also weakens the justice delivery system and poses a threat to Rule of Law.

37. Victim of a crime or his kith and kin have legitimate expectation that the State will, through its instrumentalities of the administration of criminal justice system, apprehend, prosecute and punish the guilty. There are systemic or other failures responsible for crime remaining unpunished which need to be addressed by improvement in quality and integrity of those who deal with investigation, prosecution, adjudication and execution respectively apart from improvement of the infrastructure.

(iii) Is there any duty of Police to take prompt action for expeditious investigation of cases and completing investigation within reasonable time?

38. The police is expected to take prompt action for expeditious investigation of cases. If the information received discloses commission of a cognizable offence the Officer-in-charge of the Police Station is under a statutory obligation under Section 157 of the Cr.P.C. to **forthwith** send a report of the same to the Magistrate empowered to take cognizance of such offence upon a police report

(which expression will extend to Court of Sessions Judge/Additional Sessions Judge in respect of Offences of which cognizance is taken and which are triable by them without commitment by the Magistrate which are hereinafter referred to as Court) and to proceed in person or depute one of his duly authorized subordinate officers to proceed to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender. The Officer-in-charge of the Police Station is not bound to proceed in person or depute a subordinate officer to make an investigation on the spot when information as to the commission of any such offence is given against any person by name and the case is not of a serious nature as provided in clause (a) of the proviso to sub-section (1) of Section 157 of the Cr.P.C. and is at liberty not to investigate the case if it appears to the Officer-in-charge of the police station that there is no sufficient ground for entering on an investigation as provided in clause (b) of the proviso to sub-section (1) of Section 157 of the Cr.P.C. but in each of these cases the Officer-in-charge of the police station is bound to **mention** in his report to be sent to the Court/Magistrate his reasons for not fully complying with the requirements of Section 157(1) of the Cr.P.C. and in the later case he has also to **forthwith** notify to the informant the fact that he will not investigate the case or cause it to be investigated as provided in Section 157(2) of the Cr.P.C. The object of these provisions is to induce promptness, objectivity, fairness and transparency in the investigation.

39. Although there is no specific provision in the Cr.P.C.

mandatorily specifying the time limits for completion of investigation yet sub-section (1) of Section 173 of the Cr.P.C. mandates that every investigation under **CHAPTER 12- INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE** shall be completed **without unnecessary delay**. Legislature's concern and mandate for expeditious completion of investigation is manifested by the provisions made in Section 167 (2) of the Cr.P.C. for grant of default bail in case of non completion of investigation in 90 days where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years and 60 days where the investigation relates to any other offence.

40. Even though there is no limit prescribed by the legislature for completion of investigation yet the investigation has to be completed within reasonable time as delay in investigation not only involves denial of right of access to justice and speedy trial to the complainant/victim of an offence but also enables the accused to destroy evidence and influence, win over or intimidate material witnesses besides resulting in loss of evidence due to natural factors/decay with lapse of time if not preserved. Two important statutory provisions made by the Parliament in the enactment of the Cr.P.C. are indicative of intention of the Parliament as to what will be the reasonable period of time for investigation. Section 167(5) of the Cr.P.C. empowers the Magistrate to stop investigation of summons cases after expiry of the period of six months unless there are special reasons for permitting continuance with the investigation while Section

468(2)(i)(b) provides limitation of one year for taking cognizance of the offence of furnishing false information to the police punishable under Section 182 of the IPC which under Section 469(i)(a) of the Cr.P.C. commences from the date of offence. These provisions show that the Parliament considered the period of six months for investigation of summons cases and period of one year for investigation of warrant cases to be reasonable period of time for completion of investigation.

(iv) Is there any obligation on the Court for ensuring that the investigation is conducted in accordance with law?

41. In *SLP (Criminal) No.6951 of 2018 titled as 'Amarnath Chaubey Vs. Union of India and others' decided on 14.12.2020* it was observed by Hon'ble Supreme Court as under:-

“8. The police has a statutory duty to investigate into any crime in accordance with law as provided in the Code of Criminal Procedure. Investigation is the exclusive privilege and prerogative of the police which cannot be interfered with. But if the police does not perform its statutory duty in accordance with law or is remiss in the performance of its duty, the court cannot abdicate its duties on the precocious plea that investigation is the exclusive prerogative of the police. Once the conscience of the court is satisfied, from the materials on record, that the police has not investigated properly or apparently is remiss in the investigation, the court has a bounden constitutional obligation to ensure that the investigation is conducted in accordance with law. If the court gives any directions for that purpose within the contours of the law, it cannot amount to interference with investigation.....”

(v) What are the remedies available to the complainant/victim of a crime during investigation?

42. In *Sakiri Vasu Vs. State of U.P. and others : 2008(1)*

RCR (Criminal) 392 Hon'ble Supreme Court observed as under :-

“29. In Union of India v. Prakash P. Hinduja

and another, 2003(3) RCR(Criminal) 556 : 2004(1) Apex Criminal 325 : 2003(6) SCC 195 (vide para 13), it has been observed by this Court that a Magistrate cannot interfere with the investigation by the police. However, in our opinion, the ratio of this decision would only apply when a proper investigation is being done by the police. If the Magistrate on an application under Section 156(3) Criminal Procedure Code is satisfied that proper investigation has not been done, or is not being done by the officer-in-charge of the concerned police station, he can certainly direct the officer in charge of the police station to make a proper investigation and can further monitor the same (though he should not himself investigate).

30. It may be further mentioned that in view of Section 36 Criminal Procedure Code if a person is aggrieved that a proper investigation has not been made by the officer-in-charge of the concerned police station, such aggrieved person can approach the Superintendent of Police or other police officer superior in rank to the officer-in-charge of the police station and such superior officer can, if he so wishes, do the investigation vide *CBI v. State of Rajasthan and another, 2001(1) RCR(Criminal) 574 : 2001(3) SCC 333* (vide para 11), *R.P. Kapur v. S.P. Singh, AIR 1961 Supreme Court 1117* etc. Also, the State Government is competent to direct the Inspector General, Vigilance to take over the investigation of a cognizable offence registered at a police station vide *State of Bihar v. A.C. Saldanna (supra)*.”

43. It follows that the complainant/victim of a crime is not remedy less in case of deliberate inaction, unreasonable delay, failure to collect evidence, undue sympathy with/shielding of the offenders by the concerned Police Officers and besides approaching Superior Police Officers and State Government the complainant/victim of a crime may also avail the following remedies:-

- (i) apply to the Court concerned, empowered to take cognizance of the offences in question on police report, for monitoring of investigation who can issue appropriate directions for expeditious completion of investigation;

- (ii) file complaint under section 166A (b) of the IPC against the Investigating Officer for knowingly disobeying, any direction of the law regulating the manner in which he shall conduct such investigation. In view of explanation to Section 197 (1) of the Cr.P.C. no sanction is required in case of a public servant accused of any offence alleged to have been committed under Section 166 A of the IPC; and
- (iii) file petition in the High Court for transfer of investigation to an independent agency such as CBI etc.

(vi) What action can be taken by the police on completion of investigation?

44. If, upon an investigation, it appears to the Officer-in-charge of the police station that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Court/Magistrate, such officer is duty bound under Section 169 of the Cr.P.C. to release the accused if he is in custody on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before a Court/Magistrate empowered to take cognizance of the offence on a police report, and to try the accused or commit him for trial. If, upon an investigation, it appears to the Officer in-charge of the police station that there is sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Court/Magistrate, such officer is duty bound under Section 170 of the IPC to forward the accused under custody to a Court/Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit him for trial, or, if the offence is bailable

and the accused is able to give security, to take security from him for his appearance before such Court/Magistrate on a day fixed and for his attendance from day to day before such Court/Magistrate until otherwise directed. As soon as Investigation is completed, the Officer-in-charge of the police station has to forward to the Court/Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government giving the requisite details and enclosing therewith copies of documents as required by Section 173 of the Cr.P.C.. Such report may be **charge-sheet/challan** where there is sufficient evidence against the accused or **cancellation report** where there is no sufficient evidence against the accused or information given to the police is found to be false or **untraced report** where there is sufficient evidence against the offender but the offender is untraceable.

(vii) Whether the Officer-in-charge of a Police Station is under any obligation to communicate to the first informant-complainant the action taken by him?

45. The Officer-in-charge of the Police Station is bound under Section 173(2)(ii) of the Cr.P.C. to communicate, in such manner as may be prescribed by the State Government, the action taken by him, to the person, if any, by whom the information relating to the commission of the offence was first given.

(viii) Is giving notice of cancellation/untraced report to the first informant-complainant mandatory?

46. In *Bhagwant Singh Vs. Commissioner of Police and another : 1985(2) RCR (Criminal) 259 (SC)* Hon'ble Supreme Court

held that in a case where the Magistrate to whom a report is forwarded

under Sub-section (2)(i) of Section 173 of the Cr.P.C. decides not to take cognizance of the offence and to drop the proceeding or takes the view that there is no sufficient ground for proceeding against some of the persons mentioned in the First Information Report, the Magistrate must give notice to the informant and provide him an opportunity to be heard at the time of consideration of the report.

47. Generally speaking it may not be necessary to issue notice to the first informant-complainant in cases where FIR is lodged against unknown offender and the police is unable to discover and apprehend the offender but the Court may, in appropriate cases where it considers that hearing of the first informant-complainant may provide some information to the Investigating Officer for further investigation, issue notice to the first informant-complainant in cases of untraced reports as well.

48. In case of default on the part of the concerned police officer/official in effecting service of the notice on the first informant-complainant without any lawful excuse, complaint can be filed in respect of offence punishable under Section 166 of the IPC for wilful disobedience of law as to the way in which he is to conduct himself as such Public Servant apart from sending communication to the Superior Police Officer in this regard for appropriate departmental action against him.

49. Where the first informant-complainant appears cancellation/untraced report has to be disposed of/dealt with in accordance with law. Where the first informant-complainant is dead or

cannot be found or has become incapable of giving evidence the Court/Magistrate may accept the cancellation report without prejudice to subsequently filing of complaint by the legal heirs of first informant-complainant, where he is dead or has become incapable of giving evidence, or by the first informant-complainant, where he can not be found, in respect of the same occurrence, offences and accused. Where the first informant-complainant has gone abroad or his attendance cannot be procured without an amount of delay or expense which under the circumstances of the case appears to the Court/Magistrate to be unreasonable, the Court/Magistrate may hear the first informant-complainant through video conferencing or his attorney duly authorised in this behalf.

(ix) Is giving notice of cancellation/untraced report to the injured person or relative of deceased also required?

50. In *Bhagwant Singh Vs. Commissioner of Police and another : 1985(2) RCR (Criminal) 259 (SC)* Hon'ble Supreme Court has held that an injured person or a relative of the deceased, who is not an informant, is not entitled to any notice.

(x) What are the powers of the Court/Magistrate in dealing with cancellation/untraced reports?

51. In *Gangadhar Janardan Mhatre Vs. State of Maharashtra, (SC) : 2004(4) R.C.R.(Criminal) 682* Hon'ble Supreme Court observed as under:-

“9. When a report forwarded by the police to the Magistrate under Section 173(2)(i) is placed before him several situations arise. The report may conclude that an offence appears to have been committed by a particular person or persons and in such a case, the Magistrate may either (1) accept the report and take cognizance of the

*offence and issue process, or (2) may disagree with the report and drop the proceeding, or (3) may direct further investigation under Section 156(3) and require the police to make a further report. The report may on the other hand state that according to the police, no offence appears to have been committed. When such a report is placed before the Magistrate he has again option of adopting one of the three courses open i.e., (1) he may accept the report and drop the proceeding; or (2) he may disagree with the report and take the view that there is sufficient ground for further proceedings, take cognizance of the offence and issue process; or (3) he may direct further investigation to be made by the police under Section 156(3). The position is, therefore, now well-settled that upon receipt of a police report under Section 173(2) a Magistrate is entitled to take cognizance of an offence under Section 190(1)(b) of the Code even if the police report is to the effect that no case is made out against the accused. The Magistrate can take into account the statements of the witnesses examined by the police during the investigation and take cognizance of the offence complained of and order the issue of process to the accused. Section 190(1)(b) does not lay down that a Magistrate can take cognizance of an offence only if the Investigating Officer gives an opinion that the investigation has made out a case against the accused. The Magistrate can ignore the conclusion arrived at by the Investigating officer and independently apply his mind to the facts emerging from the investigation and take cognizance of the case, if he thinks fit, exercise of his powers under Section 190(1)(b) and direct the issue of process to the accused. The Magistrate is not bound in such a situation to follow the procedure laid down in Sections 200 and 202 of the Code for taking cognizance of a case under Section 190(1)(a) though it is open to him to act under Section 200 or Section 202 also. [See **M/s India Sarat Pvt. Ltd. v. State of Karnataka and another (AIR 1989 SC 885)**].....”*

(xi) Whether the Court/Magistrate can order investigation by Central Bureau of Investigation?

52. In **CBI Vs. State of Rajasthan and another : 2001 (1)**

RCR (Criminal) 574 it was held that the Magistrate has no power under Section 156(3) of the Cr.P.C. to order investigation by the Central Bureau of Investigation.

(xii) Whether the Court/Magistrate has power to call upon the police to submit a charge-sheet?

53. In *Abhinandan Jha and another Vs. Dinesh Mishra : AIR 1968 SC 117*, Hon'ble Supreme Court while considering the provisions of Sections 156(3), 169, 178 and 190 of the Cr.P.C. held that there is no power, expressly or impliedly conferred, under the Cr.P.C., on a Magistrate to call upon the police to submit a charge-sheet, when they have sent a report under Section 169 of the Cr.P.C. that there is no case made out for sending up an accused for trial. The functions of the Magistracy and the police are entirely different, and the Magistrate cannot impinge upon the jurisdiction of the police, by compelling them to change their opinion so as to accord with his view. However, he is not deprived of the power to proceed with the matter. There is no obligation on the Magistrate to accept the report if he does not agree with the opinion formed by the police. The power to take cognizance notwithstanding formation of the opinion by the police which is the final stage in the investigation has been provided for in Section 190(1)(b) of the Cr.P.C.

(xiii) Whether the Court/Magistrate can order re-investigation/fresh investigation of the case by the Police?

54. Re-investigation or fresh investigation can be ordered only by High Court or Supreme Court and other Courts/Magistrates have no power to order the same. (see *Sasi Thomas Vs. State and others (SC) : 2007 (1) RCR (Criminal) 695* and *Vinubhai Haribhai Malaviya Vs. State of Gujarat : 2020 (1) RCR (Criminal) 1.*)

(xiv) Whether complaint can be filed and proceeded with during the period when investigation by the police on FIR lodged regarding same offences subject matter of the complaint is pending?

55. Section 210 (1) of the Cr.P.C. postulates that where in a case instituted otherwise than on a police report, it is made to appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence, which is the subject-matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation. Section 210 (2) of the Cr.P.C. posits that if a report is made by the investigating police officer under section 173 of the Cr.P.C. and on such report cognizance of any offence is taken by the Magistrate against any person, who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report. According to Section 210(3) of the Cr.P.C. if the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of the Cr.P.C..

(xv) Whether complaint can be filed by the first informant-complainant after cancellation report has been prepared but is not filed before the Court?

56. In *Rattan Chand Vs. Lachhman Dass (P&H) : 2014(4)*

R.C.R.(Criminal) 162 this Court observed as under:-

*“....the Magistrate shall stay the proceedings in the complaint case and call for the report from the police only, if it made to appear to him that **an investigation by the police is still in progress in relation to the offence, which is the subject-matter of the inquiry or trial held by him and not otherwise.** The words "an investigation by the*

police is in progress in relation to the same offence" occurring, are very important and carry significant meaning to infer the legislative intent/mandate underlined in this section. In case, the investigation has already been completed, cancellation report was filed and chapter was closed by the police as in the instant case, in that eventuality, to me, the provisions of Section 210 Cr.P.C. would not come into play in this relevant direction, as contrary urged on behalf of the accused. Assuming for the sake of argument, even if, the cancellation report is not accepted and the trial Court decides to take cognizance in the case, then, both the matters i.e. the private complaint and the case instituted on a police report, would be clubbed and decided together simultaneously by it, as contemplated under Section 210 Cr.P.C."

57. It follows that complaint can be filed by the first informant-complainant and proceeded with by the Court/Magistrate after cancellation report has been prepared but is not filed before the Court/Magistrate as the investigation will no longer be in progress.

(xvi) Whether the first informant-complainant can file complaint regarding the same occurrence after filing of cancellation report by the police and its acceptance by the Court/Magistrate?

58. Submission of a final report recommending cancellation of the FIR by the police and acceptance of the report by the Magistrate, does not debar the first informant-complainant of his right to file a separate complaint for the same offence against the same accused in the same transaction and the Magistrate is not debarred from taking cognizance on the basis thereof. (See ***Gopal Vijay Verma Vs. Bhuneshwar Prasad Sinha : (1982) 3 SCC 510; Rakha Singh Vs. State of Punjab : 1997(2) Recent CR 229; Jai Narain Vs. State of Rajasthan : 1998(3) RCR (Criminal) 409; Om Parkash Vs. Haryana State, (Punjab and Haryana) : 1998(4) R.C.R.(Criminal) 226 and Rameshwar Dayal Vs. Col. Ram Singh, (Punjab and Haryana) :***

1998(2) R.C.R.(Criminal) 802.)

59. It may be observed here that in view of these judgments the first informant-complainant can file complaint in respect of the same offences against the same persons arising out of the same transactions forming subject matter of the FIR lodged by him earlier after filing by the police and acceptance by the Court of the cancellation report. As a natural corollary it follows that the acceptance of any cancellation report by the Court/Magistrate will be without prejudice to the rights of the first informant-complainant to filing of complaint and taking of cognizance by the Court on the basis thereof. Where the first informant-complainant files protest petition/complaint, the practice of the Court/Magistrate accepting cancellation report filed by the police without prejudice to taking of cognizance by the Court/Magistrate on the basis of protest petition/complaint filed by the first informant-complainant will not be illegal. Such acceptance of cancellation reports will also enable the police to treat such matter of cancellation report to have been disposed of.

(xvii) Is there any requirement of law for filing of cancellation/untraced report by the police and disposal thereof by the Court/Magistrate within reasonable time?

60. In the matter of filing of cancellation reports by the police and disposal thereof by the Courts/Magistrates two aspects require consideration. In case information given to the police on the basis of which FIR was registered is found to be false, it will be just and proper in the interest of justice that action is initiated against the first informant-complainant by filing complaint for prosecution and

punishment of the first informant-complainant under Section 182 of the IPC but such complaint can be filed within one year from the date of offence as the period of limitation for taking of cognizance of offence under Section 182 of the IPC, which is punishable with imprisonment which may extend to six months or with fine which may extend to Rs.1,000/- or with both, prescribed under Section 468(2)(b) of the Cr.P.C. is one year which will in view of Section 469(1)(a) of the Cr.P.C. commence on the date of the offence. In the very nature of things, complaint in respect of offence under Section 182 of the IPC can be filed only after acceptance of the cancellation report by the Court/Magistrate concerned as in case of rejection of the cancellation report with direction for further investigation or taking of cognizance by the Court/Magistrate concerned, the information given to the police cannot be said to be false. Therefore, it will be just and proper to expect that cancellation reports are filed by the police and disposed of by the Court/Magistrate before expiry of the period of one year from the date of offence committed by giving of false information to the police.

61. Further, as discussed above, the first informant-complainant has a right to file a complaint before the Court/Magistrate. However, in case of filing of any such complaint in respect of offences which are under investigation by the police pursuant to registration of any FIR in respect thereof, the Court/Magistrate has to seek report from the Officer-in-charge of the police station concerned and has to stay the proceedings on the complaint. The Court/Magistrate can proceed with the complaint only in case cancellation report is prepared by the police,

whether filed by it before the Court/ Magistrate or not, or challan/chargesheet is filed by the police before the Court/Magistrate. In case challan/chargesheet is filed by the police in respect of all the offences and against all the accused any such complaint will get merged for being treated as police report for trial but in case of filing of challan by the police in respect of some of the offences or against some of the accused, on issuance of process on the complaint the same will be liable to be tagged and tried together with the challan/charge-sheet.

62. Since delay in filing and disposal of cancellation/untraced reports involves wrongful denial of the right of the first informant-complainant to access of justice and may also cause unreasonable inconvenience/loss to the accused, the police as well as the Court/Magistrate have to ensure that there is no undue and unreasonable delay in filing by the police and disposal by the Court/Magistrate of the cancellation/untraced reports respectively.

(xviii) Whether Cancellation Reports and Untraced Reports can be filed by the police on the basis of compromise between the parties and can be referred to Lok Adalat?

63. In *CRM-M-42269-2020 titled as 'Mahalovya Gauba Vs. State of Punjab and another'* decided on 08.02.2021, it was observed by this Court as under:-

“36. The legal position emerging from analysis of the relevant statutory provisions and judicial precedents may be summarized as under:-

(i) under the Legal Services Authorities Act, 1987, Lok Adalat organized by the National Legal Services Authority/State Legal Services Authority/District Legal Services Authority/Taluk Legal Services Committee for Criminal Courts has jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of any case or matter relating to an

offence compoundable under any law and arrive at a compromise or settlement between the parties and can dispose of the case or matter on the basis thereof.

(ii) In such cases the Lok Adalat has the jurisdiction to entertain and allow application for grant of permission to compromise and compound offences compoundable with permission of the Court.

(iii) In compoundable criminal cases the offences can be compounded even before filing of charge-sheet under Section 173 of the Cr.P.C. when the case is still at the stage of investigation.

(iv) Criminal cases involving compoundable offences can be referred by the Criminal Court, which has territorial jurisdiction to try the compoundable offences involved, after registration of the FIR at the stage of investigation before filing of the charge sheet or at any stage of the proceedings after filing of the charge sheet but before judgement to Lok Adalat and if the matter is compromised/settled in Lok Adalat, Lok Adalat may pass award embodying order of acquittal as if it is a Criminal Court constituted for that purpose and/or award embodying order for payment/performance of contractual/personal obligation/undertaking executable as Civil Court decree.

(v) In compoundable criminal cases where the parties express their desire to settle the matter/arrive at compromise in the course of any preliminary enquiry or investigation by the Police, the matter may be referred to Secretary, District Legal Services Authority concerned for placing the same before the Lok Adalat under Section 20(2) of the Legal Services Authorities Act, 1987 for recording terms of settlement/making efforts for amicable settlement between the parties and disposal of the matter on the basis of such amicable settlement by passing appropriate order/award executable in accordance with law.

(vi) In cases of non-compoundable offences arising out of matrimonial, family or commercial disputes which involve civil as well as criminal causes of action and in which quashing of FIR is permissible in accordance with law on the basis of compromise, where the parties express desire of compromising the matter or arrive at settlement in the course of preliminary enquiry or investigation, the matter may be referred to the Secretary, District Legal Services Authority concerned for placing the same before the Lok Adalat under Section 20(2) of the Legal Services Authorities Act, 1987 and reference can also be made in

appropriate cases by the concerned Criminal Court to the Lok Adalat for making efforts for amicable settlement between the parties, recording terms of settlement and disposal of the matter on the basis of such amicable settlement by passing appropriate order/award executable in accordance with law regarding civil cause of action with direction to the parties to approach this Court for quashing of FIR on the basis of the compromise."

64. Strictly speaking, the Officer-in-charge of the concerned police station has the power to investigate cognizable offences and has to forward accused to the Court/ Magistrate if there is sufficient evidence against the accused and discharge accused from custody if there is no sufficient evidence and file challan/chargesheet or cancellation/untraced report accordingly. Therefore, the Officer-in-charge of the concerned police station can not file cancellation/untraced report on the basis of compromise between the parties and has to ask the parties to approach the Secretary, District Legal Services Authority concerned for placing the matter before Lok Adalat or file the petition before this Court for quashing of the FIR on the basis of compromise which will save wastage of time and energy of all concerned as observed in the above referred case.

65. In ***Kamla Mehta Vs. General Manager, Rajasthan Roadways Transport Corporation, FAO No. 798 of 1999, decided on 7.11.2001*** this Court held as under :-

"....the Lok Adalats have been conceptualised as agencies wherein matters can be amicably compromised or settled by mutual agreement. These words have been repeatedly used in the statute and if such an agreement cannot be reached, the Lok Adalat must divest itself of the controversy and must itself refer or advise the parties to approach a Court. "

66. In ***Nirbhay Singh Vs. State of Punjab, (P&H) : 2004(2)***

R.C.R.(Criminal) 821, while setting aside cancellation of FIR by Lok

Adalat without notice to the informant this Court observed as under:-

“10. With regard to the facts of the case in hand, I cannot refrain myself, from observing that the Lok Adalat has miserably failed to give even moment's thought to the legal implications and complication in resorting to a short cut for the purposes of speedy disposal. This, to say the least, is most unwanted and undesirable. The functions of a Lok Adalat emanate from an amicable settlement of opposing party either on their own or on its persuasion. Nothing of the kind is on record. It appears that the Lok Adalat assumed the trappings of the competent court and rushed to the conclusion depriving the petitioner of his valuable right to being heard in the matter of police report. The relevant law in any case should not have been given a complete go bye. The impugned order of Lok Adalat cannot be supported or justified by any amount of reasoning. The impugned order thus has no substance in it and in my view it is non-existent in the eyes of law and as such cannot attain finality. Therefore, viewed from any angle, the impugned order is liable to be set-aside.”

67. It follows from the judicial precedents referred above that cancellation/untraced reports can not be referred to Lok Adalat as there can not be any amicable settlement between opposing parties either on their own or on persuasion by Lok Adalat at the stage of consideration of cancellation/untraced reports which may be in the presence of first informant-complainant but has to be in the absence and can not be in the presence of persons named as accused in the FIR. However, disposal of such cases of cancellation reports which are based on compromise between the parties in compoundable/compounded cases can be part of special drives for disposal of cases through Lok Adalat etc.

(xix) Whether the record of cancellation/untraced report is to be consigned to judicial record room or police/vernacular record room?

68. In *Gian Prakash Vs. State of H.P. (H.P.) : 2011(1)*

R.C.R.(Criminal) 360 Hon'ble Himachal Pradesh High Court observed as under :-

“In any case where a cancellation report is accepted by the Magistrate concerned/Special Judge, a copy of the FIR, a copy of the cancellation report and a copy of the opinion given by the concerned learned Public Prosecutor/learned Assistant Public Prosecutor must be retained on the file of the Court. If this is not done, it would not be possible for any superior court to find out, what were the reasons which weighed with trial court accepting for cancellation report because in most cases like in the present case, all that is stated by the Magistrate in the final order is that he has accepted the reasons given in the cancellation report and the opinion of the concerned Public Prosecutor/Assistant Public Prosecutor. In fact, in cases where the cancellation is contested then the record, if any, relating to the contest and the copies of the documents relied upon by the complainant in support of his claim contesting the cancellation report and copies of the documents which the Court relies upon to accept the cancellation report should also be kept in the Court file. Accordingly the Registry was directed to circulate the judgment to all Magistrates/Special Judges in the State so as to ensure that in future, the records are maintained properly and all relevant documents are available on the Court file.”

69. In the present case reports received from the District and Sessions Judges in the States of Punjab and Haryana and U.T. Chandigarh show that before passing of order dated 05.02.2021 different practices were being followed regarding consignment of record to the record room. The practice prevalent at some places of returning the record of cancellation/untraced reports with orders passed thereon to the police or sending the same to Vernacular/Police Record Room had the fall out of (i) non availability of the record due to having been destroyed even before final determination of the matter by the Appellate/Revisional Courts despite instructions not to destroy such

record till such final determination; and (ii) difficulties experienced in obtaining copies of the relevant record by the person aggrieved. It is pertinent to observe that cancellation/untraced reports are required to be filed under Section 173 (2) of the Cr.P.C. before the concerned Court/Judicial Magistrate having jurisdiction in the same manner in which charge-sheet/challan is filed by retaining separate police file and copy of charge-sheet/challan by the police and filing of original before the Court/Magistrate. Therefore, on conclusion of proceedings record of cancellation/untraced reports has to be consigned to the Judicial Record Room and not to the Police/Vernacular record room in the same manner as the record of charge-sheet/challan is on conclusion of trial consigned to the Judicial Record Room as the provisions of the Cr.P.C. or the High Court Rules and Orders do not make different provisions in this regard. No problem arises in cases (i) where cancellation report is accepted as in such a case entire record can be consigned to the Judicial Record Room and (ii) where cancellation report is rejected in view of protest petition/complaint filed by the first informant-complainant and cognizance is taken on the basis of material with police report or preliminary evidence produced by the first informant-complainant as in such a case entire record will be attached with the record of protest petition/complaint and will be consigned to the Judicial Record Room on final decision by the Court/Magistrate concerned. However, some problems arise in cases of untraced reports in which the case is not closed and is revived on further information regarding identity of the offender etc. and cases of cancellation reports where further

investigation is ordered. In such cases cancellation or untraced reports alongwith certified copies of original documents filed by the police along with original orders passed, notices issued by the Court, reports on the same be consigned to the Judicial Record Room and copies of cancellation/untraced reports and certified copies of orders passed, notices issued by the Court and reports on the same alongwith original documents filed by the police be given to the Officer-in-charge of the Police Station against written acknowledgement.

(xx) Whether any directions are required to be issued by this Court in exercise of powers under Section 482 of the Cr.P.C. if so to whom and to what effect?

70. Mr. P.S. Walia, learned State Counsel for the State of Punjab representing respondents No.1 to 3, Mr. Sumit Jain, learned State Counsel for the State of Haryana and Mr. Y.S. Rathore, learned Addl. Public Prosecutor for U.T., Chandigarh have referred in detail to affidavits filed by Mr. Dinkar Gupta, IPS, Director General of Police, Punjab, Mr. Manoj Yadava, Director General of Police, Haryana and Mr. Sanjay Beniwal, Director General of Police, U.T., Chandigarh respectively and submitted that the concerned Police Officers have been sensitized and directions have been issued for reducing pendency of cases of cancellation/untraced reports to the minimum, making earnest efforts for preparing cancellation/untraced reports and filing the same before the Courts/Magistrates without undue delay.

71. A careful analysis of the Statistical information furnished by the Director Generals of Police, Punjab, Haryana and U.T., Chandigarh in/alongwith their affidavits shows huge pendency of cases

where investigation is pending for more than one year and cancellation/untraced reports are pending at various stages for more than one year involving unreasonable delay as noticed in the following table:-

Particulars	Punjab	Haryana	U.T., Chandigarh
Number of cases pending for investigation for more than one year as on 01.01.2021	25677	7598	508
Number of cases in which the cancellation/untraced reports have been prepared but have not been approved by the Superior Police Officers as on 01.01.2021	13872	21621 (out of 99114) cancellation reports 44371 (out of 244472) untraced reports	97 cancellation reports 265 untraced reports
Number of cases in which the cancellation/untraced reports have been prepared and have also been approved by the Superior Police Officers but have not been filed before the concerned Court as on 01.01.2021	10386	41147 (out of 77493) cancellation reports 82856 (out of 201001) untraced reports	312 cancellation reports 1390 untraced reports
Number of cases in which the cancellation/untraced reports have been filed but are pending before the concerned Courts due to delay in action on the part of the police in serving the Court process as on 01.01.2021	8669	221 cancellation reports 152 untraced reports	74 cancellation reports 483 untraced reports

72. A comparative reading of the statistical information furnished by the Director Generals of Police, Punjab, Haryana and U.T., Chandigarh and learned Sessions Judges concerned in the States of Punjab and Haryana and U.T., Chandigarh not only shows that different approaches have been adopted in furnishing the information on the same aspects but there are also some material differences in the same and the statistical information given by them cannot be completely mutually reconciled which evidently and essentially shows lack of proper coordination essential for expeditious disposal of such cases. The number of cases in States of Punjab and Haryana and U.T., Chandigarh in which investigation is pending for more than one year and number of cases in which cancellation/untraced reports are pending for approval before Superior Police Officers and the number of cases of cancellation/untraced reports which are to be filed before the concerned Courts is very high which mandatorily requires urgent dedicated efforts for expeditious completion of investigation and filing of cancellation/untraced reports by the police and disposal thereof by the concerned Courts/Magistrates.

73. One of the main reasons for huge pendency is stated to be pandemic of Covid-19 although pendency of substantial number is for long period prior to spread of infections of COVID-19. No doubt there was non-functioning or restricted functioning of the Courts and other instrumentalities/agencies of the State due to lock-down/restrictions imposed to prevent spread of Covid-19 but cases of cancellation/untraced reports fall in the category of such cases which

can be disposed of even during restricted functioning of the Courts/instrumentalities/agencies of the State by hearing the Public Prosecutor and the first informant-complainant and also recording statement of the first informant-complainant through video conferencing as to whether he has any objection to acceptance of cancellation report/untraced report and only in the cases where the first informant-complainant raises objection to acceptance of cancellation report and intends to file protest petition/complaint and seeks adjournment for producing preliminary evidence and/or addressing arguments for persuading the Court to take cognizance on the basis of preliminary evidence or material on record, the Court/Magistrate may grant adjournment for the same and thereafter dispose of the cancellaation report in accordance with law.

74. Other causes of delay have been identified in the affidavits filed by the Director Generals of Police, Punjab, Haryana and U.T. Chandigarh in their affidavits and also by learned Sessions Judges in the States of Punjab, Haryana and Chandigarh in their reports and remedial steps taken or to be taken have also been enlisted therein. While analysis of the causes and taking of the remedial measures by them are apprciable yet much more needs to be done with greater dedicated efforts for serving the cause of justice for all.

75. Pendency of large number of cases in which investigation is pending for more than one year, cases in which cancellation/untraced reports have been prepared but are to be approved by the Superior Police Officers and also of cases in which cancellation/untraced reports

have been prepared and approved by the Superior Police Officers but are to be filed before the Courts/Magistrates in both the States of Punjab and Haryana and U.T., Chandigarh is disturbing one and urgently requires taking of further remedial measures immediately. Pendency of large number of cancellation/untraced reports before Courts/Magistrates for more than one year in both the States of Punjab and Haryana and U.T., Chandigarh is also alarming as disposal of cancellation/untraced reports does not involve/require adjudication of any complicated questions of facts and law or final determination of the questions of guilt or innocence of the accused and merely involves the questions as to whether investigation was proper and whether there are sufficient grounds for directing further investigation or proceeding against the accused or accepting the report. The legitimate expectation that cancellation/untraced reports will be filed by the police and disposed of by the Courts/Magistrates without any undue delay is frustrated not by any shortage of infrastructure or men power but by causes attributable to apathy, neglect, lack of coordination and proper management and not giving of due attention with requisite determination of serving the cause of justice for all. The cause of justice suffers by delay in filing of cancellation/untraced reports by the Police and disposal of the same by the Courts/Magistrates. The huge pendency of cases involving long delay in filing of cancellation/untraced reports by the police and disposal of the same by the concerned Courts/Magistrates warrants issuance of requisite directions by this Court in exercise of inherent powers under Section 482 of the Cr.P.C.

to prevent abuse of process and securing ends of justice.

76. In view of the above, in order to prevent abuse of process and for securing the ends of justice following directions are issued for compliance in time bound manner (subject to Covid-19 related restrictions/relaxations):-

1. Directions to the police

The Director Generals of Police, Punjab, Haryana and U.T.Chandigarh are directed to issue instructions to all the Commissioners of Police/Senior Superintendents/Superintendents of Police of the Districts/Police Districts in the States of Punjab and Haryana and U.T. Chandigarh to ensure that:-

- (i) lists of cases in which investigation is pending for more than one year, cases in which cancellation/untraced reports are to be prepared, cancellation/untraced reports have been prepared but are pending for approval of Superior Police Officers and cancellation/untraced reports have been approved by Superior Police Officers but are yet to be filed before the concerned Courts/Magistrates are submitted to the concerned Courts/Magistrates within one month from the date of receipt of copy of this order and thereafter at the end of every quarter;
- (ii) effective steps are taken for completion of investigation in cases in which investigation is pending for more than one year within six months in summons cases and one year in warrant cases from the date of receipt of copy of this order

as far as possible and status reports are submitted before the concerned Courts/Magistrates at the end of each quarter;

- (iii) all cancellation reports/untraced reports already approved by the Superior Police Officers are filed before the Courts/Magistrates concerned within one month from the date of this order and thereafter within one month from the date of such approval by the Superior Police Officers;
- (iv) in all cancellation reports/untraced reports pending for approval before Superior Police Officers, the question of approval is decided by the concerned Superior Police Officers within three months from the date of this order and thereafter within three months from the date of submission of cancellation reports/untraced reports to them for such approval and that cancellation reports/untraced reports so approved by the Superior Police Officers are filed before the Courts/Magistrates concerned within one month from the date of approval of cancellation reports/untraced reports by the concerned Superior Police Officers;
- (v) information regarding filing of cancellation/untraced reports is given to the first informant-complainant, before or immediately after filing of the same before the Court concerned, in the form prescribed by the State Government and if no such form has been prescribed by the State

Government then by supplying a copy of the cancellation/untraced report and

- (vi) in view of the huge pendency and likely heavy institution of such cases, special efforts are made for service of notice on the first informant-complainant by creating dedicated cell for service of such notices and appointing Nodal Officer for supervising the same in each District/Police District.

2. Directions to the Courts/Magistrates concerned

All the concerned Courts/Magistrates in the States of Punjab and Haryana and U.T.Chandigarh are directed to ensure that :-

- (i) all cases where investigation is pending for more than one year are monitored by seeking periodical reports every quarter and passing appropriate orders, as warranted by the facts and circumstances of the case and also the status reports submitted to them, in accordance with law;
- (ii) all such cancellation reports/untraced reports as are presented by the Officers-in-charge of the Police Stations concerned are received without imposing any condition and registered in CIS immediately without any delay;
- (iii) On presentation of cancellation reports and in appropriate cases untraced reports, notice is issued to first informant-complainant for service through the police process serving agency and that in case of default on the part of the concerned police officer/official in effecting service of the

notice on the first informant-complainant without any lawful excuse, appropriate action is taken against defaulting police officer/official.

- (iv) On appearance of the first informant-complainant cancellation/untraced reports are disposed of/dealt with in accordance with law as discussed above.
- (v) Where the first informant-complainant is dead or has become incapable of giving evidence or cannot be found, the cancellation report is accepted without prejudice to filing of complaint subsequently by the legal heirs of first informant-complainant where he is dead or has become incapable of giving evidence or by the first informant-complainant in respect of the same occurrence, offences and accused as the case may be.
- (vi) Where the first informant-complainant has gone abroad or his attendance cannot be procured without an amount of delay or expense which under the circumstances of the case appears to the Court to be unreasonable, cancellation report is disposed of by hearing the first informant-complainant through video conferencing or attorney duly authorised in this behalf.
- (vii) cancellation/untraced reports already pending before them are disposed of expeditiously preferably within six months, as far as possible, from the date of receipt of copy of this order and cancellation/untraced reports filed subsequent to

the passing of this order are disposed of expeditiously preferably within six months, as far as possible, from the date of institution thereof, as the case may be.

(viii) where the cancellation reports/untraced reports cannot be disposed of within the period of six months as aforesaid due to reasons beyond their control, a statement, besides monthly statement which is submitted now, is submitted at the end of six months to this Court along with the reasons as to why the case could not be disposed of within the period of six months while mentioning what further period is likely to be taken in disposal of the case.

(ix) On conclusion of proceedings record of cancellation/untraced reports is, as a matter of general practice, consigned to the Judicial Record Room and not to the Police/Vernacular record room in the following manner:- (a) where cancellation report is accepted entire record be consigned to the Judicial Record Room (b) where cancellation report is rejected in view of protest petition/complaint filed by the first informant-complainant and cognizance is taken on the basis of material with police report or preliminary evidence produced by the first informant-complainant, entire record be attached with the reord of protest petition/complaint and be consigned to the Judicial Record Room on final decision (c) in cases of cancellation reports where further investigation is ordered

and in cases of untraced reports which have to be revived on further information regarding identity of the offender etc., cancellation or untraced reports alongwith certified copies of original documents filed by the police along with original orders passed, notices issued by the Court, reports on the same be consigned to the Judicial Record Room and copies of cancellation/untraced reports and certified copies of orders passed, notices issued by the Court and reports on the same alongwith original documents filed by the police be given to the Investigating Officer/Officer-in-charge of the Police Station against written acknowledgement.

3. Directions to the Sessions Judges

All the concerned Sessions Judges are directed to ensure that statistical information regarding pendency, institution and disposal of cancellation/untraced reports in compiled form is placed in meetings with Judicial Officers and meetings of Monitoring Committee comprising of the District and Sessions Judge, the Deputy Commissioner, the Commissioner/Senior Superintendent/Superintendent of Police and District Attorney and appropriate instructions are given to the concerned for expeditious filing and disposal of cancellation reports/untraced reports as the case may be.

4. Directions to Chandigarh Judicial Academy

The Chandigarh Judicial Academy is directed to include appropriate study material on the subject in the training/refresher courses of the Judicial Officers for sensitization of Judicial Officers for

expeditious disposal of cancellation/untraced reports. Such study material shall also include statistical information as well as record of some cases where unnecessary adjournments have been granted for high-lighting the aspects of providing accurate Statistical information and pointing out the deficiencies in working of the Courts and emphasizing taking of remedial measures.

CRM-18673-2021 and CRM-M-44143-2020

77. Mr. Deepanshu Mehta, learned Counsel for the petitioner has argued that there has been unreasonable delay in filing of cancellation report by the police and disposal thereof by learned Sub Divisional Judicial Magistrate, Jagraon but now respondent No.4-complainant has appeared through duly constituted attorney and directions may be given to the Sub Divisional Judicial Magistrate, Jagraon for disposing of the cancellation report after hearing/recording statement of duly constituted attorney of respondent No.4-complainant.

78. Mr. P.S. Walia, learned State Counsel for respondents No.1 to 3 and Mr. Prabhdeep Singh Bindra, learned Counsel for respondent No.4-complainant have no objection to issuance of such directions as may be considered by this Court to be appropriate.

79. In the present case the petitioner and respondent No. 4 compromised the matter and in view of compromise filed CRM-45896-2016 and CRM-M-45930-2016 for quashing of the FIRs lodged by them. However, respondent No.4 did not appear before the trial Court to make statement as respondent No.4 went abroad and proceedings were initiated for declaring him as proclaimed offender. The police

investigated the case and found the same to be false and accordingly prepared cancellation report but did not file the same before the concerned Court. The petitioner filed CRM-M-36038-2018 on which the Co-ordinate Bench of this Court vide order dated 26.11.2018 directed respondent No.2-Senior Superintendent of Police, Ludhiana (Rural) to file the cancellation report positively within four weeks. In compliance with order dated 26.11.2018 the police submitted cancellation report on 17.12.2018 before learned Sub-Divisional Judicial Magistrate, Jagraon. Notice was issued to respondent No.4 but the same was received back unserved. The grievance of the petitioner is that due to pendency of the cancellation report, the police is not giving clearance certificate to the petitioner for going abroad.

80. As respondent No.4-complainant was residing abroad and presence of respondent No.4-complainant could not be secured without unreasonable expense and delay, the Sub Divisional Judicial Magistrate, Jagraon could make efforts for recording of statement of respondent No.4-complainant through video conferencing in case of availability of his contact details or statement of duly constituted attorney of the complainant. In the eventuality of contact details not being available and/or video conferencing not being feasible or there being no duly constituted attorney earlier, the Sub Divisional Judicial Magistrate, Jagraon could consider the matter on merits and could reject cancellation report and order further investigation or take cognizance against the petitioner on the basis of material on record if so warranted or

accept cancellation report without prejudice to filing of complaint by respondent No.4-complainant subsequently in respect of the same occurrence, accused and offences subject matter of the FIR. Grant of repeated adjournments and keeping the matter pending for years for awaiting service of notice on respondent No.4-complainant, who was residing abroad and against whom proceedings for declaring him as proclaimed offender were initiated was neither proper nor the only course mandated by law.

81. The petitioner has, after filing of the petition, filed CRM-18673-2021 on 28.06.2021 for disposal of the matter by recording statement of respondent No.4-complainant through his attorney. Respondent No.4-complainant has also put in appearance before this Court through his Counsel who has no objection to disposal of the cancellation report by recording statement of attorney of respondent No.4-complainant. In view of the facts and circumstances of the case, application-CRM-18673-2021 and petition-CRM-M-44143-2020 deserve to be allowed for issuance of direction to the Sub Divisional Judicial Magistrate, Jagraon to dispose of the cancellation report after hearing/recording statement of attorney of respondent No.4-complainant and taking further proceedings in accordance with law.

82. In view of the above discussion, application-CRM-18673-2021 and petition-CRM-M-44143-2020 are allowed and the Sub Divisional Judicial Magistrate, Jagraon is directed to dispose of the cancellation report after hearing/recording statement of

attorney of respondent No.4-complainant and taking further proceedings in accordance with law. The petitioner and respondent No.4-complainant are directed to appear before the Sub Divisional Judicial Magistrate, Jagraon on 26.08.2021. In view of long pendency of the cancellation report, the Sub Divisional Judicial Magistrate, Jagraon is directed to dispose of the same within one month from the date of appearance of the parties before him in compliance of this order.

83. A copy of this judgment be supplied to learned State Counsel, Punjab and Haryana and Additional Public Prosecutor, U.T., Chandigarh and be also sent to the Director Generals of Police, Punjab, Haryana and U.T., Chandigarh, all District and Sessions Judges in the States of Punjab and Haryana and U.T., Chandigarh, the Director Administration, Chandigarh Judicial Academy and the Sub Divisional Judicial Magistrate, Jagraon for information/requisite compliance.

11.08.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No