

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

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**CWP-693-2020 (O&M)
Date of Decision: 12.10.2022**

SATNAM SINGH

... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Joginder Pal Devgan, Advocate
for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been filed under Articles 226/227 of the Constitution of the India for issuance of a writ in the nature of Certiorari for quashing/setting aside the inquiry report dated 08.08.2019 (Annexure P-9) submitted by the respondent No.5 alleging that the said investigation had been conducted in a bias manner in order to extend undue advantage to the private respondents. A further direction is sought to be issued to official respondents to submit/file report under Section 173 of the Cr.P.C. in case bearing FIR No.34 dated 14.03.2019 under Section 447, 427, 148, 149 of Indian Penal Code, 1860 registered at Police Station Bhindi Saidan, District Amritsar Rural.

A reply by way of affidavit of Manavjit Singh, P.P.S., Deputy Superintendent of Police, Sub Division Attari, Amritsar Rural dated 22/25.07.2022 was filed and the copy thereof had been furnished to the learned counsel for the petitioner. As per the averments contained in the said reply, final report in the form of a cancellation report under Section 173(2) of the Cr.P.C. was duly filed on 02.07.2020. But the cancellation report was, however,

not accepted by the Illaqa Magistrate, Ajnala, District Amritsar and vide order date 17.02.2021, the Illaqa Magistrate, Ajnala, District Amritsar has taken cognizance of the offence(s) in exercise of his judicial discretion under Section 190 (1) (b) of the Cr.P.C. The relevant extract of the said affidavit is reproduced hereinafter below:

“7. That the respondent No.4 issued directions to the respondent No.6 to file a cancellation report and accordingly, the respondent No.6 submitted a cancellation report UCR No.28/2020 under Section 173(2) Cr.P.C. in the learned court of Area Judicial Magistrate, Ajnala, District Amritsar on 02.07.2020.

8. That vide order dated 17.02.2021, the learned Area Judicial Magistrate, Ajnala, District Amritsar rejected the aforesaid cancellation report submitted by the respondent No.6 and proceeded take cognizance of the offences under sections 447, 427, 148 & 149 IPC by exercising his judicial discretion under section 190 (1) (b) of the Cr.P.C. against private respondents Nos. 7 to 9 with the following observations

10. In view of the aforesaid reasons, this Court is of the considered opinion that from the statements under Section 161 Cr.P.C. and other documents placed on record, a prima facie case for the commission of offence under Section 447, 427, 148, 149 IPC is made out against Balwinder Singh son of Darshan Singh, Gurpreet Singh son of Balwinder Singh and Shindro Kaur wife of Balwinder Singh, residents of village Awan Wasau, Police Station Bhindi Saidan. Therefore, this Court hereby takes cognizance against them under Section 190 (1) (b) of the Code of Criminal Procedure. They are ordered to be summoned to face trial accordingly.

11. Ahlmad is directed to register the present case as Police Challan in the relevant Register and it be put up on 15.04.2021. Notice to accused Balwinder Singh son of Darshan Singh, Gurpreet Singh son of Balwinder Singh and Shindro Kaur wife of Balwinder Singh, Residents of

village Awan Wasau, Police Station Bhindi Saidan be issued for 15.04.2021.

9. *That presently, the case is fixed for the appearance of the private respondents No.7 to 9 before the learned trial court and the next date of hearing is fixed for 28.07.2022. ”*

Learned counsel for the respondent-State further contends that the evidence in the matter has already been recorded and the further proceedings are on head-way, but no application raising challenge to the investigation was filed on behalf of the petitioner either under Section 173(8) of the Cr.P.C. or any other applicable statutory provision. He thus, contends that there is no further surviving cause of action in the present petition.

I have heard the learned counsel for the respective parties and have gone through the material available on record.

Taking into consideration the aforesaid circumstances and the fact that the prayer of the petitioner for directing the official respondents to file the final report under Section 173 Cr.P.C. already stands fulfilled and the fact that the Area Magistrate has already taken cognizance of the offences in question, there remains no further surviving grievance of the petitioner and as such, the present petition is hereby disposed of having been rendered as infructuous.

However, the passing of aforesaid order shall not prejudice the right of the petitioner to take recourse to the alternative remedy, if any, as he may have in accordance with law.

12.10.2022
Rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No