

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

CRM-M-12845-2018
Date of Decision: 08.09.2022

Sukhwinder Singh @ BhangiPetitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Arun Sharma, Advocate, for
Mr. R.S. Bajaj, Advocate, for the petitioner.

Ms. Monika Jalota, Sr. DAG, Punjab

Mr. G.S. Jagpal, Advocate, for respondent No.2.

HARNARESH SINGH GILL, J. (Oral).

The petitioner seeks quashing of FIR No.480 dated 31.08.2000, registered at Police Station Sadar (Now P.S. Lamba), District Jalandhar, under Sections 302, 201 read with Section 34 IPC and the order dated 23.10.2017, passed by the learned Additional Chief Judicial Magistrate, whereby cancellation report submitted by the police, has not been accepted and a further investigation has been ordered.

Learned counsel for the petitioner would vehemently contend that the matter had been investigated by the police through and through and the petitioner has been found innocent and consequently, the police had filed a cancellation report in the Court and that even respondent No.2- Rajinder Kumar Malhotra (son of deceased Tikka Rani @ Usha), had also not objected to the acceptance of the cancellation report.

It is further submitted that the FIR in this case was registered on 31.08.2000 and all these years, the matter kept pending despite the repeated reports submitted by the police regarding the innocence of the petitioner; that complainant-Sita Katyal, has already died and, thus the very approach of the learned trial Court in returning the file for further investigation, is legally unsustainable.

On the other hand, learned State counsel and the counsel for respondent No.2, submit that while ordering further investigation, the learned Magistrate has exercised the discretion vested in her and no fault can be found with the same. Still further, it is submitted that merely because the complainant has died, is no ground to accept the cancellation report.

Having heard learned counsel for the parties, I find no merit in the present petition and the same is liable to be dismissed.

A perusal of the impugned order would show that the learned Magistrate has only observed that the cancellation report could not be accepted at that stage and the prosecution was directed to verify the whereabouts of the other legal heirs of the deceased in order to enable them to make statement in that regard. Accordingly, the matter was returned for further investigation. Since, further investigation has been ordered, no fault can be found with the process adopted. Even otherwise, it lies within the absolute domain of the Magistrate, to accept or reject the cancellation report, keeping in view the facts and circumstances of each case.

No other point has been urged.

In view of the above, the present petition is dismissed.

08.09.2022
ds

(HARNARESH SINGH GILL)
JUDGE

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