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

CRM-M-15366-2021

Date of decision:13.05.2022

MANINDER SINGH ALIAS MANJINDER SINGH

...Petitioner

Versus

STATE OF PUNJAB AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: None for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. In the instant petition the relief is canvassed for making fair, and, impartial investigations into FIR No.37 of 22.04.2019, registered at Police Station Mehtiana, District Hoshiarpur, and, a further relief is also asked for, that a mandamus be made, upon the investigating officer concerned, to institute a final report under Section 173 Cr.P.C., against the accused in the FIR (supra).

2. The above initial prayer appertaining to skewed, and, slanted investigations being made into FIR (supra), by the investigating officer concerned, may, subject to tangible evidence becoming adduced qua therewith may have been accepted by this Court, but yet only if the investigations into the FIR (supra), were underway, and, had not concluded either through a report under Section 173 of Cr.P.C., being filed before the learned trial Court concerned, or a cancellation report being filed before the learned trial Magistrate concerned.

3. However, since a perusal of the order made, on 19.04.2022, by the learned JMIC, Hoshiarpur, which has been placed before this Court, by the learned State counsel, reveals, that the investigating officer concerned, in respect of the FIR (supra), has filed a cancellation report, and, with further revelations occurring

thereins, that the lis has been listed for 10.06.2022, for filing a protest petition thereagainst.

4. Consequently, when the investigation has resulted in the filing of a cancellation report by the investigating officer concerned, before the learned trial Judge concerned, and, when against its acceptance, an opportunity has been given to the aggrieved to file a protest petition against its acceptance. Therefore, all grievances appertaining to skewed, and, slanted investigations being made into the FIR (supra), and, also appertaining to hence transfer of investigation, and, as appertaining to the petition FIR, and, besides qua further investigations, can be agitated only before the learned trial Magistrate concerned, and, not before this Court.

5. In view of the above, the afore asked for relief, at this stage, is not maintainable before this Court. Moreover, the secondary relief, as asked for, in the instant petition for a mandamus being made, upon the investigating officer concerned, to institute a report under Section 173 of Cr.P.C., against the accused is also not maintainable before this Court, as it is always within the domain of the investigating officer concerned, to after making an objective analysis of the evidence collected by him, after making investigations into the FIR concerned, to make a conclusion whether a report under Section 173 Cr.P.C., is to be filed, and/or, a cancellation report is to be filed. Even if the investigating officer concerned, has chosen to file a cancellation report in respect of petition FIR before the learned trial Court concerned, yet as above stated, the only remedy available to the aggrieved, is the ones, as mentioned above, and, no mandamus is amenable to be made, at this stage against the investigating officer concerned, to proceed to yet draw, and, file an affirmative report under Section 173 of Cr.P.C., against the accused.

6. Dismissed with the afore observations.

(SURESHWAR THAKUR)
JUDGE

13.05.2022

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