

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

CRR No.941 of 2022

Date of Decision: 25.05.2022

Ranjeet Kaur and Ors

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Inderjit Sharma, Advocate for the petitioner.

Mr. B.S. Sewak, Addl.AG Punjab.

HARINDER SINGH SIDHU, J

This revision has been filed impugning order dated 04.04.2022 passed by learned Sub Divisional Judicial Magistrate, Talwandi Sabo whereby the cancellation report presented in FIR No.59 dated 02.05.2020 under Sections 353,186 IPC registered at P.S Raman, District Bathinda against the petitioners has been rejected with a direction that the matter be further investigated.

Petitioner No.2 and his brother Surjit Singh moved applications against each other in a land dispute. They were called to the police station for hearing on the applications. Said FIR was registered against the petitioners on the statement of SI Gurdeep Singh with the allegations that the petitioners disrupted the complainant in discharge of his duties.

Before proceeding further, it would be apt to reproduce the contents of the FIR, which read as under:

“Copy statement, Statement of Gurdeep Singh SI No.653/Bathinda Chowki Refinery, Police Station Raman Mobile No.94170-79316. It is stated that I am the investigating officer at Chowki Refinery. It is stated that Surjit Singh son of Kartar Singh resident of village Ramsara and Gurmeet Singh son of Kartar Singh from the other side had filed their application with regard to land dispute against each other for

which both the parties were given time for hearing these applications. That still hearing of these applications was to be started, at once Gurmeet Singh son of Kartar Singh, Ranjit Kaur's wife Gurmeet Singh son of Kartar Singh and his son Sahilpreet Singh came present at Chowki and I started talking to Munshi Senior constable Harsimranjeet Singh No.940/Bathinda in a heated manner and started shouting loudly. Hearing their voice, I also went to Bathinda to them along with PHG Samsher Singh No.22015 and Lady Constable Gagandeep Kaur No.2338 and wanted to explain to them. On seeing me, Ranjeet Kaur clung to the uniform of PHG Samsher Singh 22015 and tore his uniform. When I and Gagandeep Kaur tried to convince Ranjeet Kaur, her son Sahilpreet Singh and then Ranjeet Kaur interrupted my duty and by doing so, Gurmeet Singh. Ranjeet Kaur and her son Sahilpreet Singh came to the Chowki and disrupted the duty of me and the rest of the staff while on duty as public servants and attacked the police personnel. Action be taken against them. Statement got recorded to you, which is correct. Sd/- Gurdeep Singh SI above mentioned. Attested Sd/- Gobind Singh ASI Incharge Chowki Refinery Police Station Raman Date 02/05/2020.”

It is the case of the petitioners that the allegations in the FIR are totally false. In fact, petitioner No.2 was called to the police station on the application submitted by his brother Surjit Singh. Petitioner No.2 went to the police station but as he did not return back, the Panchayat of the village reached the police station along with petitioner No.1 (wife of petitioner No.2) and their son petitioner No.3 to enquire about whereabouts of petitioner No.2. In the police station, the petitioners were manhandled by

the police officials. Petitioner Nos.1 & 2 were beaten by the police officials. Both of them suffered blunt injuries. As per the MLR, following injuries were found on the person of petitioner No.1-Ranjeet Kaur :

“1. Pain in right iliac region. No external injury mark seen. Adv x-ray. Adv othro opinion.

2. Bluish bruise 2 cm x 5 mm just below the left eye lateral canthus. Adv X-ray KUO.

Advised surgeon opinion.”

Following injuries were found on the person of petitioner No.3-Sahilpreet:

“1. Abrasion ½ cm x 1 mm on the right ear lobule. Clotted blood is present.

2. Linear abrasion 3 cm x 1 mm scratch on left side of the neck. Clotted blood present;”

A DDR in this regard was registered. In order to cover up the same, the petitioners were implicated in the FIR.

As the allegations in the FIR are totally false, the petitioners submitted a representation to the higher Authorities for taking action against the police officials, who had caused injuries to petitioner Nos.1 & 3. Investigation of the FIR was entrusted to the DSP. A detailed investigation was conducted. It was found that a false case has been registered against the petitioners. A cancellation report dated 11.06.2020 was prepared and submitted before the Magistrate. The complainant appeared before the Magistrate and stated that he did not agree with the cancellation report. After recording the evidence, learned Magistrate while rejecting the cancellation report vide the impugned order directed that the matter be further investigated as per law. Order passed by the learned Magistrate is reproduced hereinbelow:

“Complainant ASI Gurdeep Singh No.653/BTI in person.

Statement of complainant ASI Gurdeep Singh

No.653/BTI recorded today in the Court wherein he stated that he is complainant in the present cancellation report presented in FIR No.59 dated 02.05.2020 under Sections 353/186 of IPC PS Raman registered against the accused Gurmeet Singh, Ranjit Singh and Sahilpreet Singh. He further stated that he does not agree with the cancellation report submitted by the Police of Police Station Raman and he has objection if the cancellation report is accepted.

Heard. Police has filed the present cancellation report and statement of the complainant has been recorded in the court as per which he stated that he does not agree with the cancellation report submitted by the police and same may kindly be rejected. In view of the statement suffered by complainant that he is not agree with the present cancellation report and offences under Sections 353 and 186 IPC are non-compoundable, the present cancellation report is hereby rejected and is ordered to be returned to the quarter concerned with the direction that the matter be further investigated against the accused as per law. In compliance of the order passed by the Hon'ble High Court in CRM-M-44143-2020 (O&M). Ahlmad of this Court is directed to copies of cancellation report and certified copies of order passed, notice 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 acknowledgment. File be consigned to the Record Room after due compliance.

The primary contention of learned counsel for the petitioners is that the Magistrate while rejecting the cancellation report has not recorded any reasons. The report has been rejected merely on account of disagreement of the complainant. In order to support his case, learned

counsel relies on a judgment of this Court reported as **Tarlochan Singh Sethi vs. State of Punjab & Anr., 2015 Supreme (P&H) 1177**, paragraphs 15 of which reads as under:

“While rejecting the cancellation report, the learned Magistrate was duty bound to record his own satisfaction instead of accepting mere disagreement of the complainant. It is so said because it is not the satisfaction of the complainant which matters, but it is the satisfaction of the Court which should be relevant factor for rejection or acceptance of a cancellation report, as held by this Court in Prithvi Raj Sehgal's case (supra) as well as in Kuldip Raj Mahajan's case (supra). It was further held that the learned Magistrate would be exceeding his jurisdiction, in case the summoning order is issued without considering the cancellation report. This is what is the fact situation of the present case, because learned Magistrate has not at all adverted to the cancellation report which was a self-contained document, before issuing impugned summoning order. Having said that, this Court feels no hesitation to conclude that the impugned protest petition as well as the summoning order, cannot be sustained.

The impugned order is totally non-speaking inasmuch as it contains no reasons for rejecting the cancellation report.

Accordingly, present petition is allowed and the impugned order dated 04.04.2022 is quashed. The matter is remanded to the Magistrate to decide the matter afresh in accordance with law.

May 25, 2022
manoj

(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No