

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(117)

CRM-M-21918-2022
Date of Decision: 23.09.2022

Baljit Singh

--Petitioner

Versus

State of Punjab & another

--Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Navjot Singh, Advocate for the petitioner.

Mr. Sandeep Kumar, D.A.G., Punjab.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under praying for quashing of order dated 21.4.2022 (Annexure P-6) passed by learned SDJM, Malerkotla, whereby the cancellation report in FIR No.27 dated 23.3.2021 registered under sections 498-A and 34 IPC at Police Station, City 1, Malerkotla, District Sangrur was not accepted and remanded back for further investigation.

Learned counsel for the petitioner submits that petitioner is the father of the husband, whereas respondent no.2/complainant is the mother of Rubina, who is married with the son of the petitioner. He submits that both husband and wife are living in Canada and their marriage is also dissolved by a decree of divorce dated 2.11.2021 passed by the court of British Columbia and the same has been placed on record as Annexure P-3. Counsel submits that only in order to harass the petitioner, who is in India, mother of Rubina lodged the present FIR. He submits that after registration of the FIR a thorough and fair investigation was conducted and the investigating agency filed an untraced report before the court of competent

jurisdiction. He submits that the court concerned has rejected the same and directed the investigating agency for further investigation in the matter on the ground that complainant is not agreeing with the filing of the cancellation report. Counsel has relied upon the judicial precedent in case of *Prithvi Raj Sehgal Vs. State of Punjab & others, 2007(3) R.C.R (Crl.) 438* and submits that the view taken by the learned court below is without applying the judicial mind and thus the same is totally unsustainable in the eyes of law.

Notice of motion.

On the asking of the court, Mr. Sandeep Kumar, D.A.G., Punjab accepts notice on behalf of respondent no.1-State.

Learned State counsel submits that the case was thoroughly investigated and thereafter the cancellation report was filed. He submits that the learned Magistrate was well within his jurisdiction to direct the further investigation in the case.

I have heard learned counsel for the parties and gone through the records carefully.

There is no gainsaying that once the cancellation report is filed by the prosecution, learned Magistrate has an option to adopt one of three courses;

- (i) he may accept the report and drop the proceedings or
- (ii) he may disagree with the report and taking the view that there is sufficient ground for proceeding further, take cognizance of the offence and issue process or

(iii) he may direct further investigation to be made by the police under sub-section (3) of Section 156.

I am supported by the Hon'ble Supreme Court judgement in case of *Bhagwant Singh Vs. Commissioner of Police & another 1985(2) SCC 537*. In the case in hand though, the learned Magistrate concerned has opted for one of the above options by directing the investigating agency for further investigation, however, the perusal of the impugned order would reveal that learned Magistrate has not discussed any reasons except that the complainant is not satisfied with filing of the cancellation report.

In the considered opinion of this court the impugned order is not passed in accordance with the mandate of law and the same deserves to be set aside. Resultantly, the impugned order is accordingly set aside. Learned Magistrate concerned is directed to revisit the case and decide the same afresh after hearing both the sides as in accordance with law.

(RAJESH BHARDWAJ)
JUDGE

23.09.2022

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