

128.

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

CWP-27026-2022

Date of Decision: 24.11.2022

GURSEWAK SINGH

.... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Preetwinder Singh Dhaliwal, Advocate,
for the petitioner.

JAISHREE THAKUR.J (Oral)

The instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside the inquiry report and the charge-sheet that has been issued against the petitioner.

The petitioner herein was appointed as a Constable in the 5th Commando Battalion in 2016 and was working satisfactorily, however, has been served with a charge-sheet on the ground that he remained absent from duty and is involved in FIR No.112, dated 28.06.2021, under Sections 363, 366A, 376, 506, 34 IPC and Sections 3 and 4 of POCSO Act, registered at Police Station Sardulgarh.

Counsel appearing on behalf of the petitioner would urge that the services of the petitioner are sought to be terminated primarily on the ground that he was involved in the said FIR. However, a reading of the FIR

would reflect that his name is not mentioned therein. It is submitted that in the inquiry report he had no opportunity of cross-examining either the complainant or the prosecutrix and, therefore, the inquiry report itself cannot be read against him as due opportunity was not given to him to cross-examine the witnesses.

The petitioner has a remedy to reply to the show cause notice that has been issued to him and he is at liberty to take all pleas therein showing that he was not involved in the FIR or that he was not given adequate opportunity of cross-examining the witnesses. In such a situation when remedy is available, this Court is not inclined to quash either the inquiry report or the charge-sheet so issued at the present moment.

Faced with this, counsel for the petitioner seeks withdrawal of present petition.

The petition is disposed of as withdrawn, giving liberty to the petitioner to raise all pleas before the authorities concerned.

Any observation made hereunder are only for the purpose of disposing of the writ petition

Needless to say, the authorities concerned would consider all pleas as raised by the petitioner.

(JAISHREE THAKUR)
JUDGE

24.11.2022

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