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

CWP No.36346 of 2018(O&M)
Date of Decision: 08.08.2022

Harmesh Singh

-Petitioner

Versus

State of Punjab and others

- Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Pawandeep Singh, Advocate
for the petitioner.

Mr. C.L. Pawar, Sr. DAG, Punjab.

Mr. Lalit Singla, Advocate and
Mr. G.S. Rana, Advocate
for respondents No.5 to 7.

RAJ MOHAN SINGH, J. (Oral)

Petitioner has preferred this writ petition for the issuance of an appropriate writ in the nature of mandamus, directing respondent No.2 to decide the representation dated 05.11.2018 and reminder dated 28.11.2018 given by the petitioner putting front his grievance as respondent No.3 has ordered cancellation of FIR No.149 dated 06.07.2018 under Sections 167, 418, 420, 120-B IPC and Section 29 of the SARFAESI Act against the accused on the basis of inquiry report dated 20.10.2018 conducted by the Superintendent of

Police, Sangrur.

On the basis of inquiry conducted by the Superintendent of Police (Investigation) and recommended by the Senior Superintendent of Police, Patiala, the Investigating Officer has been directed to file cancellation report in the present case.

The grievance of the petitioner is that the Investigating Officer of the case has not conducted any investigation, rather the higher officer i.e. Superintendent of Police (Investigation) has conducted some inquiry and the said inquiry report has been handed over to the Investigating Officer of the case to file cancellation report.

In a way, the inquiry conducted by the Superintendent of Police (Investigation) is the parallel inquiry to the investigation which was to be conducted by the Investigating Officer of the case in terms of Section 173(1) Cr.P.C.

As per guidelines/circular dated 24.05.2009 issued by the then Director General of Police and in view of **CRM-M No.18244 of 2008** titled **Jaswinder Singh Vs. State of Punjab and others** decided on 12.01.2009, holding of parallel inquiry after lodging of FIR has been deprecated. There is a difference between the investigation and inquiry. Inquiry report, if any, can only be relied upon by the accused in his defence evidence at

the relevant stage and the said inquiry report has to be proved in accordance with law.

In view of aforesaid facts, it would be just and appropriate to quash the cancellation report. The Investigating Officer of the FIR shall proceed to investigate the offence in accordance with law and thereafter, file report under Section 173 Cr.P.C. If no offence is found to have been committed, then Investigating Officer would be at liberty to file cancellation report on the basis of his investigation.

This writ petition is accordingly allowed.

All pending applications are accordingly disposed of.

08.08.2022
Prince

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No