

CRM-M-17697-2021

Date of decision: 13.03.2023

Sham Lal Walia

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**Present:** Ms. Manpreet, Advocate for
Mr. S.P. Soi, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

The instant petition has been filed by the petitioner under Section 482 Cr.P.C. seeking quashing of FIR No.239 dated 27.06.2005 (Annexure P-1) under Sections 451/506/147 of IPC, 1860 registered at Police Station Sadar (now Police Station Maqsudan), District Jalandhar and all the subsequent proceedings arising therefrom.

On 02.02.2023 the following order was passed:-

“The present petition has been filed by the petitioner under Section 482 Cr.P.C. seeking quashing of FIR No.239 dated 27.06.2005 under Sections 451/506/147 of IPC, registered at Police Station Sadar (now Police Station Maqsudan) District Jalandhar (Annexure P-1) and all subsequent proceedings arising therefrom.

On issuance of notice of motion, status report by way of affidavit of Sh. Sukhjinder Singh, PPS, Assistant Commissioner of Police (North), Jalandhar, has been filed and the same is already on the record. Para 2 thereof reads as under:-

“2. That after lodging of the present FIR, the investigation was conducted by the then SHO of P.S. Maqsudan, Jalandhar, who found that no offence is made out under Sections 451/506/147 of IPC against the petitioner and co-accused, namely, Pritam Dass, Parmod Walia, Bobby. After scrutinizing the entire clues and evidence, the then SHO, P.S. Maqsudan prepared cancellation report in the present case. The alleged occurrence took place in Village Reru, Jalandhar which was earlier under jurisdiction of Police post Maqsudan, Police Station Sadar, Jalandhar but now the said area fall under Police Station Division No.8, Commisionerate, Jalandhar. So deponent seeks some time to furnish the proper particulars of the present FIR as the local police has to follow the procedure for calling the record through proper channel from P.S. Maqsudan, Jalandhar. That the present short reply/status report is being filed in compliance of order dated: 29.04.2021 passed by this Hon'ble Court. However, the answering respondent seeks some time to file detailed reply after

receiving the record.

It is, therefore, respectfully prayed that the status report may kindly be entertained, in the interest of justice.”

A perusal of the reproduction made above would show that although it has been stated that after conducting investigation, the then SHO found that no offence is made out under Sections 451/506/147 of IPC against the petitioner and other co-accused, namely, Pritam Dass, Pramod Walia and Bobby and the then SHO prepared cancellation report in the present case.

Learned counsel for the petitioner has referred to Annexure P-3, which is a reply given by the office of Senior Superintendent of Police-cum-Public Information Officer, Jalandhar under the RTI Act, wherein, it has been stated that in the above said FIR cancellation report has been approved on 29.07.2007.

Learned counsel for the petitioner submits that in spite of lapse of more than 15 years, the same has not been filed before the trial Court till date.

In such circumstances, Commissioner of Police, Jalandhar, is directed to file his own affidavit explaining the delay of 15 years in not submitting the cancellation report before the trial Court in FIR No.239 dated 27.06.2005 under Sections 451/506/147 of IPC, registered at Police Station Sadar (now Police Station Maqsudan) District Jalandhar, despite of the fact that the same has been approved by the concerned authority(s) on 29.07.2007; within a period of four weeks.

Adjourned to 13.03.2023.

Needful be done by the next date of hearing with an advance copy to the other side.”

In pursuance of the order dated 02.02.2023, learned State counsel has filed affidavit dated 12.03.2023 of Kuldeep Singh Chahal, IPS, Commissioner of Police, District Jalandhar, which is taken on record. Copy thereof has been supplied to the counsel for the petitioner. In the said affidavit at para No.8, it has been stated that the cancellation report has been filed on 01.03.2023 before the Ld. Trial Court and the same is now pending for 22.03.2023.

Since the cancellation report has already been filed before the Ld. Trial Court, therefore, the instant petition has been rendered infructuous accordingly and the same is disposed of as such.

13.03.2023

Parveen kumar

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned :Yes/No
Whether reportable :Yes/No