

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

251

CRM-M-27887-2021 (O&M)
Date of decision: 20.03.2023

JASHANDEEP SINGH AND OTHERS

....Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Vivek Singla, Advocate for the petitioners

Mr. R.S. Khaira, DAG Punjab

AMAN CHAUDHARY. J.

The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing the impugned order dated 12.12.2020 passed by the learned Chief Judicial Magistrate, Bathinda vide which although the cancellation report was filed in FIR No.0113 dated 09.07.2019 registered under Sections 364 and 34 IPC registered at Police Station Kotwali Bathinda, District Bathinda.

Learned counsel submits that the FIR was lodged against unknown persons and the petitioner was falsely implicated in the case. After the investigation was conducted, a cancellation report was submitted before the Court. However, the learned Magistrate ordered investigation without giving any reasons inspite of the fact that the complainant/informant agreed with the said report.

Learned State counsel on the other hand refers to status report by way of affidavit of Gurjeet Singh, PPS, Deputy Superintendent of Police, City-I, Bathinda dated 27.10.2021 and in particular to para Nos.4 and 6 to 9, thereof, and the statement of Karamjeet Kaur, Annexure R-1/T, who had stated that she has concocted the story of abduction of Malkit Singh. He on instructions from ASI Jaswinder Singh submits that even in the statement recorded of Malkeet Singh, who has alleged to have abducted, he had stated that no such incident had taken place. He further submits that after the order passed by the learned Magistrate for further investigation, notice was issued to the complainant, as also an intimation was given at his office, which is adjacent to the police station, but he has not joined the proceedings.

Heard.

It is worthwhile to refer to the judgment of Hon'ble The Supreme Court in the case of **State through CBI vs. Raj Kumar Jain**, (1998) 6 SCC 551, wherein it was held that, "As regards the direction for further investigation, it is, of course, true that the Special Judge has power to so direct if he finds, on consideration of the police report, that the opinion formed by the Investigating officer seeking discharge of the respondent is not based on full and complete investigation, as observed by this Court in *Abhinandan Jha vs. Dinesh Mishra*. Unfortunately, however, in issuing the above direction the Special Judge has not given any reason whatsoever which prompted him to direct further investigation nor does it appear that he has gone through the police report and its accompaniments." Further, "After recording the above finding the usual order which we are required to make is to remand the matter to the special Judge with a direction to look into the

report under Section 173(2) Cr. P.C. and the documents referred to therein to decide whether further investigation should be ordered or not....”

A bare reading of the impugned order in the present case, wherein the complainant had also accepted the cancellation report, the Magistrate has not assigned any reasons and directed to conduct further investigation, which is contrary to the law laid down in the case of Raj Kumar Jain (supra).

In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 12.12.2020 is set aside and the case is remitted to the Chief Judicial Magistrate, Bathinda to decide afresh, in accordance with law.

Nothing expressed hereinabove, would be construed to be an expression of opinion on merits of the case.

(AMAN CHAUDHARY)
JUDGE

March 20, 2023
M.Kamra

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