

240

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH****CRM-M-5388-2018 (O&M)**

Date of decision:20.02.2023

Gurmukh Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR****Present:** Mr. K.S. Dadwal, Advocate  
for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

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**NAMIT KUMAR, J. (ORAL)**

This is a petition under Section 482 Cr.P.C. seeking transfer of investigation in FIR No.100 dated 24.05.2017 under Sections 430 and 506 of IPC, 1860 registered at Police Station Maqsudan District Jalandhar (Rural) to respondent No.3 or to some other independent agency for fair and impartial investigation.

On 03.02.2023 the following order was passed:-

*“The learned State counsel has filed reply dated 03.02.2023 by way of an affidavit of Sh. Surinder Pal, PPS, Deputy Superintendent of Police, Sub Division Kartarpur, District Jalandhar (Rural), on behalf of respondents No.1 to 5-State and the same is taken on record. Copy thereof has been supplied to learned counsel for the petitioner.*

*It has been stated in the status report that during the course of investigation, the present FIR/case was found to be registered on the basis of wrong facts and accordingly, the SHO, Police Station Maqsudan vide case diary No.11 dated 13.11.2017 recommended for filing of cancellation report in the present case/FIR and the same was thoroughly perused by the then DSP, Sub Division, Kartarpur, District Jalandhar (Rural) and while agreeing with the same, directions were issued to prepare the cancellation report in the present case and consequently, cancellation report was prepared on 06.01.2018 and was sent to DSP, Sub Division, Kartarpur, who approved the same on 06.01.2018 and forwarded the same to the then SSP, District Jalandhar (Rural), who approved the same on 09.03.2018 with the directions to the DSP, Sub Division, Kartarpur, to get the same presented before the*

*learned Court of competent jurisdiction and the same was submitted before the learned trial Court on 07.06.2021 and notice was issued to the complainant for 25.08.2021. Thereafter, the complainant has appeared before the learned trial Court on 25.08.2021 and recorded his separate statement that he do not agree with cancellation report and wants to file protest petition and ultimately the protest petition was entertained and the complainant was directed to lead preliminary evidence in support of the allegations vide order dated 14.09.2021.*

*The learned State counsel submits that since the petitioner has already filed the protest petition against the cancellation report, therefore, the instant petition has been rendered infructuous.*

*Counsel for respondent No.6 submits that even the protest petition filed by the complainant against the cancellation report has been withdrawn on 16.08.2022.*

*Faced with this, learned counsel for the petitioner seeks time to get instructions from the petitioner.*

*Adjourned to 20.02.2023.”*

Counsel for the petitioner has produced the order dated 14.09.2021 passed by the Court of Ld. JMIC, Jalandhar which reads as under:-

*“Today the protest petition against the cancellation report filed by the police authorities in FIR No.100 of 2017 under Section 430, 506 of IPC and further to summon accused No.2 to 8 for said offence. The complainant has reiterated the allegation against the accused. It has been pointed out that on basis of complaint FIR has been registered but now the police officials have submitted cancellation report. Wrong conclusion is stated to have been derived in the cancellation report. The complainant claims sufficient available evidence to prove the offence. Hence, under the given circumstances, this court deems it appropriate to treat instant protest petition as IPC complaint. Now Ahlmad is directed to register it as IPC complaint. The complainant is hereby directed to lead preliminary evidence for 11.10.2021 in support of his allegation.”*

On the strength of the above reproduced order dated 14.09.2021, counsel for the petitioner submits that protest petition filed by the petitioner against the cancellation report has been treated as IPC complaint and the complainant has been directed to lead preliminary evidence on 11.10.2021 in support of his allegations and the said matter is still pending and is now fixed for 01.04.2023.

In view of the above facts, counsel for the petitioner submits that he may be permitted to withdraw the present petition with liberty to raise all the pleas

as have been raised in the instant petition, before the learned trial Court.

Dismissed as withdrawn with aforesaid liberty.

**20.02.2023**  
*Parveen kumar*

**(NAMIT KUMAR)**  
**JUDGE**

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