

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

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CWP-18740-2022

Date of decision: 05.01.2023

HARMAN SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Mandhir Singh Virk, Advocate
for the petitioner.

Mr. Ferry Sofat, Addl. A.G. Punjab.

VINOD S. BHARDWAJ, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India, 1950 for seeking issuance of writ in the nature of Certiorari for quashing the status report dated 08.08.2022 (Annexure P-7) issued by the Senior Superintendent of Police, Rupnagar whereby the Police Clearance Certificate has been denied to the petitioner.

It has been argued by the learned counsel appearing on behalf of the petitioner that the petitioner was falsely implicated as an accused in case bearing FIR No. 136 dated 10.12.2017 registered under Section 323, 325, 506, 148 and 149 of the IPC at Police Station Sri Chamkaur Sahib, District Rupnagar registered on the complaint made by one Pushpa Devi wife of Karam Singh. The petitioner as well as other members of his family were arraigned as an accused in the said case. The matter was investigated by the investigating agency and the cancellation report against the petitioner was filed. However, a protest

application was filed by the complainant and even thereafter, although other co-accused(s) were summoned, however, the petitioner was not summoned as an additional accused by the competent Court. He further contends that the cancellation report was thus accepted qua the petitioner and that there was no occasion for the police to have declined issuance of any Police Clearance Certificate to the petitioner.

Written statement on behalf of the respondents have been filed wherein they had taken a stand that the cancellation report having not been accepted, hence, there is no infirmity in the certificate issued by the respondents-authorities and that the report is thus based strictly on the record.

Counsel for the petitioner has, however, submitted that an application for seeking clarification had been submitted by the petitioner before the Illaqa Magistrate, Rupnagar and vide order dated 30.11.2022 it was held as under:

“Arguments heard on the application to clarify the fact that Bhajan Kaur and Harman Singh are not accused in the above-mentioned case. Perusal of the main file reveals that the FIR No.136 dated 10.12.2017, under Sections 323, 325, 506, 148, 149 read with Section 34 IPC, Police Station Sri Chamkaur Sahib was registered against the six persons namely Gurmeet Singh, Harman Singh, Harjinder Kaur, Sarabjit Kaur, Kartar Singh and Bhajan Kaur on the complaint of complainant Pushpi Devi. Thereafter, on completion of investigation, the concerned police presented cancellation report in the Court on dated 10.10.2019 by finding the case of complainant as false.

However, the complainant Pushpa Devi submitted protest petition against the said cancellation report on dated 27.11.2019 in the Court. Thereafter, on dated 10.12.2019, the then Ld. Judicial Magistrate Ist Class, Rupnagar after hearing the arguments on cancellation report of prosecution, and protest petition filed by complainant:Pushpa Rani, partly allowed the protest petition and ordered to summon four accused namely Harjinder Kaur, Gurmeet Singh, Sarabjit Kaur and Kartar Singh to face trial for the commission of offences punishable under Sections 323, 325, 506 r/w 34 IPC.

Meaning thereby, the accused namely Bhajan Kaur and Harman Singh were not summoned, and the cancellation report presented in the case was accepted qua accused Bhajan Kaur and Harman Singh. Hence, it is clarified that at this stage, the applicants Bhajan Kaur and Harman Singh are not accused in FIR No.136 dated 10.12.2017, under Sections 323, 325, 506, 148, 149 read with Section 34 IPC, Police Station Sri Chamkaur Sahib, because, cancellation report has been accepted by the Court against them on dated 10.12.2019. Accordingly, instant application stands disposed of. Papers be tagged with the main file.”

He thus submits that by the clarification having already been issued by the Illaqa Magistrate that the cancellation report stands accepted qua accused Bhajan Kaur and petitioner Harman Singh, hence, the Police Clearance Certificate as issued by the respondents needs to be updated and a fresh certificate be issued in terms of the clarification issued by the Illaqa Magistrate.

Taking into consideration the aforesaid aspect and the order subsequently passed by the Judicial Magistrate First Class, Rupnagar extracted above, the present petition is hereby allowed and the status report dated 08.08.2022 (Annexure P-7) is set aside and the respondent No.2 is directed to issue a fresh Police Clearance Certificate in view of the subsequent developments that have taken place.

(VINOD S. BHARDWAJ)
JUDGE

JANUARY 05, 2023

Vishal sharma

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