

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

CRM-M-43523-2023(O&M)

Date of Decision: 01.09.2023

Harmeet Singh Grewal

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. R.S. Chugh, Advocate
for the petitioner.

Mr. Dhruv Dayal, Additional AG, Punjab.

ARUN MONGA, J. (ORAL)

Present petition has been filed under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') seeking directions to respondents no.2 and 3-Senior Superintendent of Police, Ludhiana Rural and SHO, PS Jodhan, Police District Jagraon, District Ludhiana to re-investigate the matter in FIR No.39 dated 10.04.2007 (Annexure P-5), registered under Sections 406 and 120-B of IPC at Police Station, Dehlon (now P.S. Jodhan), Police District Jagraon, District Ludhiana and present the *challan* against the accused persons in a time bound manner, as directed vide order dated 15.02.2019 (Annexure P-6) passed by learned Judicial Magistrate 1st Class, Ludhiana.

2. Succinct facts of the present case as pleaded in the petition are as under:

i) Prahlad Singh Grewal made/constructed/established. a Medical Institution/Hospital by the name of BHAGWANT MEMORIAL (CHARITABLE) TRUST (BMCT) at village Narangwal, District Ludhiana in memory of his Late son Bhagwant Singh Grewal who died

on 08.06.1953 in England. A Declaration/Trust deed to this effect was also got registered with Sub- Registrar Ludhiana on 01.07.1970 vide which Prahlad Singh Grewal and Gurmail Singh Grewal were founders of the Trust. Since then, the founders and their families have been donating from time-to-time large sums of money for such charitable purpose. Copy of declaration/trust deed dated 01.07.1970 is annexed as Annexure P-2.

ii) After the death of Sh. Prahlad Singh Grewal in 1992, his elder son Gurcharan Singh Grewal stepped into the shoes of his father and became Managing Trustee of BMCT. After the death of Gurcharan Singh Grewal in 1999, the petitioner (Harmeet Singh Grewal) became Managing-Trustee of BMCT alongwith Gurmail Singh Grewal. Thereafter a new trust deed between the petitioner and Gurmail Singh Grewal was also executed on 26.03.2003. Copy of trust deed dated 26.03.2003 is annexed as Annexure P- 3. Unfortunately Gurmail Singh Grewal died in the year 2004 and his son Gurdish Singh Grewal stepped into his shoes and became a trustee of BMCT alongwith the petitioner.

iii) As a matter of fact, the hospital was run well for many years by doctors from Christian Medical College (CMC), Ludhiana, after which it was decided to appoint/engage an in-house doctor and consequently one Dr. Sarabjit Singh was appointed to run the hospital. Thereafter Dr. Sarabjit Singh in connivance with one Tej Partap Singh (Authorised Signatory of BHAGWANT MEMORIAL (CHARITABLE) TRUST) with ill will and motive to grab the entire property of the trust, prepared a false and illegal Lease deed for 21 years between the trust and Shri Ganesh Charitable Trust through Dr. Sarabjit Singh at an annual lease amount of Rs. 100/- only. Copy of the said lease deed is annexed as Annexure P-4.

iv) The petitioner on attaining knowledge of the said illegal lease deed 29.04.2004, got registered a FIR no. 39 dated 10.04.2007, under sections 406/120-B of IPC at police station Dehlon (now PS Jodhan), Police District Jagraon, District Ludhiana against Tej Partap Singh and Dr. Sarabjit Singh. It is pertinent to mention here that Dr. Sarabjit Singh did not own the premises but is illegally running it. Dr. Sarabjit Singh in connivance with Tej Partap Singh had taken over the hospital by presenting an invalid power of attorney in favour of Tej Partap Singh which had been got cancelled by the petitioner in April 2003 i.e. prior to execution of lease deed. Copy of FIR is annexed as Annexure P-5.

v) The police instead of filing challan u/s 173 of Code of Criminal Procedure, 1973, had presented cancellation report before the court of Ms. Lovejinder Kaur, the then JMIC, Ludhiana. The Ld. JMIC vide its order dated 15.02.2019 remanded the matter back to the concerned authorities for further investigation and returned the cancellation report on the ground that offences against the accused are serious in nature. Copy of order dated 15.02.2019 is annexed as Annexure P-6.

3. Learned counsel for petitioner submits that since the passing of directions of learned Judicial Magistrate 1st Class, Ludhiana to re-investigate the matter, police is sleeping over the matter for reasons well known to them. Despite the fact that the Trust as well as petitioner had sent various letters contained at Annexures P-7 to P-9 to the police to comply with the said directions, no action has been taken.

4. I have heard learned counsel for the petitioner and perused the case file.

5. Order dated 15.02.2019 passed by learned Judicial Magistrate 1st Class, Ludhiana (Annexure P-6), is premised on the following reasoning:

“Heard on cancellation report submitted by Investigating Agency. In present case, on the basis of complaint moved by complainant, after thorough investigation and obtaining report of DA Legal, FIR was registered against accused. Subsequently, one of the accused namely Sarabjit Singh moved an application bearing No.175 dated 03.05.2007 for further inquiry, upon which the present FIR has been ordered to be cancelled. There is nothing on record that at the time of subsequent enquiry complainant was summoned by the concerned authorities and he joined the inquiry proceedings. The charges levelled against the accused persons are serious in nature. Accordingly, the matter is remanded back to the concerned authorities for further investigation. Ahlmad is directed to segregate the Judicial papers from the cancellation report and the same be consigned to the Judicial Record Room and cancellation report is hereby ordered to be returned to the quarter concerned.”

6. Prayer of petitioner is two-fold; first to re-investigate the FIR in question; and second to present the final report by the police against the accused persons in a time bound manner.

6.1. The first submission of petitioner is liable to be rejected. Perusal of the order dated 15.02.2019 (Annexure P-6) reveals that learned Magistrate remanded the matter to the concerned authorities for further

investigation, but in the instant case, petitioner has sought re-investigation of FIR in question, which is not permissible in law. Reference may be had to **Vinay Tyagi v. Irshad Ali @ Deepak and others**¹. In **Ramachandran v. R. Udhayakumar**², the Apex Court held that “further investigation” was distinguished from “re-investigation”, as the latter wiped out earlier investigations. The Supreme Court concluded that further investigation could be carried out if required under Section 173(8) of the CrPC. The principle of double jeopardy did not apply to further investigation, and the accused were not subjected to investigation twice over. “Further investigation” referred to additional and supplemental investigation, as has been held by the Supreme Court in **Rama Chaudhary v. State of Bihar**³. In the instant case, learned Magistrate has correctly ordered for further investigation in the FIR in question.

7. So far as the second plea of petitioner is concerned with regard to directing the police to submit final report against the accused persons in a time bound manner, the same is also devoid of merits. I am of the view that petitioner ought to have approached learned Magistrate for redressal of his grievance instead of filing the instant petition before this Court. Section 156(3) of Cr.P.C. empowers a Magistrate to monitor the investigation and also ensure proper investigation in a time bound manner. Reference may be had to Apex Court judgments in **Sakiri Vasu versus State of U.P and others**⁴ and **Sudhir Bhaskarrao Tambe versus Hemant Yashwant Dhage and others**⁵ wherein it is observed that High Courts in the country have been flooded with petitions

¹ (2013) 5 SCC 762

² (2008) 5 SCC 413

³ (2009) 6 SCC 346

⁴ (2008) 2 SCC 409

⁵ (2016) 6 SCC 277

praying either for registration of FIR or for a proper investigation within a given time frame.

8. That apart, in view of the above order dated 15.02.2019 (Annexure P-6), as the matter is still under further investigation, no fresh ground worthy of interference is made out. The petition is, consequently, dismissed.

9. Pending application(s), if any, shall also stand disposed of.

01.09.2023
Jyoti Thakur

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No