

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

(244)

CRM-M-23911-2016
DATE OF DECISION:-27.04.2023

Yadvinder Kaur and others

...Petitioners

vs.

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Akshay Bhan, Senior Advocate, with
Mr. HPS Sandhu, Advocate, for the petitioners.

Mr. Amit Shukla, AAG, Punjab.

Mr. Atul Lakhanpal, Senior Advocate, with
Mr. Sidharth Chawla, Advocate, for the respondents.

HARKESH MANUJA, J.

(1) By way of present petition filed under Section 482 of the Code of Criminal Procedure, 1973, prayer has been made for quashing of the FIR No.276 dated 03.08.2015 under Sections 406/120-B/506 IPC, registered at Police Station Phagwara City, Kapurthala, Punjab (Annexure P-1) besides order orders dated 04.04.2016 (Annexure P-8) and 07.05.2016 (Annexure P-9) whereby, Court below directed re-investigation followed by issuance of non-bailable warrants against the petitioners.

(2) Both the parties are *ad idem* that in view of the settled proposition of law laid down by the Hon'ble Supreme Court in cases of **Vinay Tyagi Vs. Irshad Ali @ Deepak and others**, 2013(2) RCR (Criminal) 197 & **Mithabhai Pashabhai Patal and others Vs. State of Gujarat**, 2010 (1) R.C.R. (Criminal) 171, re-investigation cannot be directed by the Magistrate upon consideration of final report.

(3) Accordingly, in view of the law laid down by the Hon'ble Supreme Court in the aforesaid judgments, the order dated 04.04.2016 passed by the Sub Divisional Judicial Magistrate, Phagwara, is set aside to the extent of directing the investigating agency to re-investigate the FIR in question. Consequently, the trial Court shall reconsider and decide the matter afresh upon consideration of the final report submitted by the investigating agency and upon hearing both the sides.

(4) Considering the fact that FIR in question was registered way back in the year 2015 and the matter has been hanging fire with the investigating agency/Courts for the past about 8 years now, the trial Court is requested to complete the aforementioned exercise within a period of 3 months from the date of receipt of copy of this order. It is made clear that once the direction issued by the trial Court vide order dated 04.04.2016 (Annexure P-8) regarding order of re-investigation has been set aside, the consequential order dated 07.05.2016 (Annexure P-9) is also stands quashed.

(5) It is however made clear that nothing said herein above shall not be treated as an expression of opinion on the merits of the case.

(6) It will be open to the parties to challenge the merits of the order passed by trial Court as and when the occasion arises.

27.04.2023
anil

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No