

CRM-M-57304 of 2022

2023:PHHC:073524

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

CRM-M-57304 of 2022

Date of decision: 19.05.2023

Balbir Singh

.....Petitioner

versus

State of Punjab and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**

Present: Mr. Chetan Bansal, Advocate,  
for the petitioner.

Mr. Anup Singh, AAG, Punjab.

**NAMIT KUMAR, J.**

1. This third petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.107 dated 30.10.2004 under Sections 395/506 IPC, registered at Police Station Rahon, District Nawanshahr, and all consequential proceedings arising therefrom.

2. Impugned order dated 04.08.2022 passed by the Court of learned Additional Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar, reads as under: -

*“As per the report made by the ahlmad notice sent to complainant received back unserved with the report that the*

*complainant is not residing at given address. Perusal of the file goes to show that untraced report was presented on 01.07.2019 since that it is pending for service of complainant. In view of this facts and circumstances untraced report submitted by the police is ordered to be sent back to concerned police station with the direction to ensure the presence of complainant and submit again. Judicial papers be separated and consigned to the record room, whereas, the file is ordered to be returned to the concerned police station through Naib Court along with copy of this order against proper receipt.”*

3. Learned counsel for the petitioner submits that the cancellation report has been filed before the trial Court on 24.06.2019 (Annexure P-6) and the same has not been accepted by the Court only for want of service of the complainant and in view of the untraced report submitted by the police, the concerned file has been sent back to the concerned police station with the direction to ensure the presence of the complainant and submit again. He further submits that there is no mandatory requirement under the law for the presence of the complainant for acceptance of cancellation report, if the complainant intentionally not appearing in the Court. He submits that the cancellation report can be accepted in the absence of the complainant. He relies upon the orders passed by the Coordinate Bench(s) of this Court in ***'Kulwant Singh and another Vs. State of Punjab and another'*** CRM-M45862-2017 decided on 29.01.2018 and ***'Gurpreet Singh Kohli Vs. State of Punjab and another'*** CRM-M-44084-2021 decided on 23.02.2022.

4. Notice of motion was issued on 09.12.2022, in compliance of which status report by way of affidavit of Ranjit Singh, Deputy Superintendent of Police, Sub Division Nawanshahr, has been filed on

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behalf of respondent No.1-State. However, respondent No.2 has not been served as he is not residing at the given address. Learned counsel for the petitioner submits that whereabouts of respondent No.2 are not known, therefore, his service may be dispensed with.

5. It seems that the learned Magistrate failed to comply with the provisions of law. There is no law that the police must produce the complainant along with the cancellation report, as such, impugned order dated 04.08.2022 is set aside.

6. This petition is disposed of with a direction to the learned Magistrate to act in accordance with law and dispose of the cancellation report within one month from the date of receipt of a certified copy of this order.

19.05.2023  
R.S.

(NAMIT KUMAR)  
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No