

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

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CRM-M-59954-2023 (O&M)

Date of decision: 20.12.2023

Ajeet Massey Naahar**...Petitioner****Versus****State of Punjab and others****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Ritesh Pandey, Advocate
for the petitioner.

Ms. Himani Arora, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed under Section 482 Cr.P.C. by the petitioner for giving directions to respondent Nos. 1 and 2 to constitute a Special Investigating Team (for short 'SIT') to thoroughly investigate the FIR No. 231 dated 31.07.2023, registered under Sections 376 IPC and Section 6 of the POCSO Act, 2012 at Police Station Civil Lines Batala.

2. Briefly stated the facts of the case are that the petitioner has been working as a Manager in Salvation Army Institute, which consists of one aided school, one girls college and one English medium school. His wife is posted as Principal in the English medium school. It is alleged that one Balraj Singh and his wife Aster, who were employees in the above named institution, had been suspended. In the month of July, 2023, they filed a civil suit against the petitioner, his wife and some other employees of the institution challenging their suspension. On 31.07.2023, the aforementioned FIR No. 231

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was lodged at Police Station Civil Lines Batala against him on the basis of a complaint made by one female student of Salvation Army Senior Secondary School, Batala, who was staying in the hostel, whereby the allegations were made that the petitioner had committed rape upon her. It is further submitted that after conducting enquiry/investigation in the matter, it was found that the allegations levelled in the abovesaid FIR were false and there was no involvement of the petitioner in the same. The petitioner, who was arrested, was released from custody. A cancellation report has also been filed in the matter. It is further submitted that the aforementioned FIR had been registered against the petitioner in pursuance of some deep rooted conspiracy being hatched by some unscrupulous persons, who wanted to defame the institution, where the petitioner has been working as well as himself. It is submitted that though he has been found to be innocent but it is also clear that the complainant of the abovementioned FIR, had been made a scapegoat and the else. real culprit was someone else. A prayer has been made for conducting further UnearthL investigation in the matter by constituting an SIT, so as to unearth the conspiracy that had been hatched in the matter and to bring the real culprit to book.

3. Learned State counsel has placed on record copies of the orders passed by the trial Court showing that cancellation report has been filed by the police before the concerned Court and the same is pending thereon. Learned State counsel has argued that since the matter has already been investigated thoroughly and a cancellation report has already been submitted, therefore, nothing else is required to be done in this matter. It is also submitted that if the petitioner is not satisfied with the cancellation report, he can seek his

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alternative remedies in accordance with law. Hence, it is urged that the petition is liable to be dismissed.

4. I have heard learned counsel for the parties and have also gone through the material placed on record.

5. The petitioner is obviously not aggrieved of the proceedings that have been conducted by the investigating agency in the matter culminating into filing report of cancellation of FIR, thereby exonerating him of the allegations levelled against him. The plea taken by him is that the FIR had been lodged against him on account of some larger conspiracy hatched by some persons against the institution, wherein he has been working and he is seeking direction for investigating the matter further through an SIT, so as to go behind the veil and to know as to on whose behest the FIR was got lodged by the complainant against him.

6. The question that arises for determination before this Court is as to whether in the peculiar facts and circumstances of the case when a report regarding cancellation of FIR has been filed in favour of the petitioner before the concerned Court, can any direction be issued by this Court for constituting SIT for conducting any further investigation in the matter and as to whether the petitioner, being accused in the above said FIR, has right to seek to direction for conducting further investigation in the matter or to conduct investigation in a particular manner?

7. In my considered opinion, the answer to the above question should be in negative as the well settled proposition of law is that an accused has no right to seek changing of the investigating agency or to conduct investigation in a particular manner and it is only an aggrieved person who can claim that the offence, he is alleged to have committed, be investigated

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properly and even the complainant has no right to claim that it be investigated by any particular agency of his choice. Reliance in this regard can be placed upon *Central Bureau of Investigation vs. Rajesh Gandhi and another, 1997 Criminal Law Journal 63*.

8. Undoubtedly, an investigation can be transferred from State investigating agency to any other independent agency to do the justice between the parties, to instill confidence in public mind, or where investigation by the police lacks credibility or it is necessary for having a fair, honest and complete investigation. Reference in this context can be made to *Prof. K. V. Rajendran vs. Superintendent of Police, CBCID, South Zone, Chennai, (2013) 12 SCC 480*. However, it is also well established that the order giving direction to conduct investigation by SIT or CBI is not to be passed as a matter of routine but in a rarest of rare circumstance, which can also be not ignored. Power to transfer the investigation must be exercised sparingly, cautiously and in exceptional situation, where it becomes necessary to provide credibility and instill confidence in investigations or where such order may be necessary for completing justice and enforcing the fundamental rights. Reference in this regard can be placed upon *State of West Bengal and others vs. the Committee for Protection of Democratic Rights, West Bengal and others, (2010) 3 SCC 571* and *Himanshu Kumar and others vS. State of Chhatisgarh and others, 2022 SCC Online SC 884*, wherein similar observations were made.

9. On applying the above discussed principles of law to the present case, it is observed that though the FIR had been lodged against the present petitioner on the complaint of complainant 'E' (*name withheld*), however, after conducting thorough investigation in the matter, the allegations

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as levelled therein were found to be false. Thereafter, a cancellation report has been submitted before the trial Court. The petitioner, who was accused in aforementioned FIR, seeks issuance of a direction for constituting an SIT to thoroughly investigate the FIR. It is not his version that the investigation had not been conducted properly by the investigating agency in the matter. Neither the same can be his contention as the investigation has remained fruitful for him. He seeks indulgence of this Court for the purpose of constituting SIT for conducting further investigation to know as to who was the actual person behind lodging of the said FIR. The plea taken by him that the FIR against him was lodged with a view to malign the reputation of the institution, wherein he has been working as well as himself at the behest of someone else, other than the complainant, cannot be stated to be having any basis in view of the fact that no specific allegation has been levelled by him against any particular person in this regard. If the petitioner is aggrieved of the fact that someone else was instrumental in lodging of the FIR against him, he is at liberty to file a complaint before the concerned Court and seek appropriate remedy in accordance with law. No sparing or extraordinary circumstance warranting indulgence of this Court for exercising powers under Section 482 Cr.P.C. has been made out in favour of the petitioner in this case.

10. Accordingly, finding no merit in the present petition, the same is dismissed.

20.12.2023

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

Yes