

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

**CRM-M-59521-2022
Date of decision :31.07.2023**

GURWINDER PAL SINGH AND ORS. ...Petitioners

Vs.

STATE OF PUNJAB AND OTHERS ...Respondents

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Karan Sachdeva, Advocate
for the petitioners.

Mr. Harkanwar Jeet Singh, AAG Punjab.

JASJIT SINGH BEDI, J.

The Prayer in this petition under Section 482 Cr.PC is for quashing of FIR No. 279 dated 17.11.2019 under Sections 325, 323 and 34 IPC registered at Police Station Sadar Fazilka, District Fazilka.

The brief facts of the case are that the present FIR was registered against four accused. Pursuant to the institution of the FIR, investigation was conducted which culminated in the preparation of a cancellation report dated 25.03.2020, which came to be submitted before the ACJM, Fazilka on 26.08.2022.

However, on the presentation of the cancellation report, merely on the statement of the complainant that he did not agree with the same, the matter was referred back for further investigation vide order dated 26.08.2022 (Annexure P-3). It is this order which is under challenge in the present petition.

The learned counsel for the petitioner contends that a further investigation could not have been ordered merely on the statement of the complainant. The Court of ACJM, Fazilka ought to have applied its mind to the cancellation report and then passed an appropriate order. He therefore prays that impugned order be quashed and directions be issued to ACJM, Fazilka, to pass a fresh order in accordance with law on the basis of the cancellation report.

Learned State counsel while referring to the reply dated 30.07.2023 does not dispute the factual position as narrated hereinabove.

Heard learned counsel for the parties.

Admittedly, in the aforementioned FIR which came to be registered a cancellation report was submitted. However, merely on the statement of the complainant, the matter was referred back for further investigation without any application of mind on behalf of ACJM, Fazilka. In CRM-M-5036-2019(O&M) titled as '**Ravinder Kumar Vs. State of Punjab**', CrI. Revision No. 1160 of 2006 titled as '**State of Haryana Vs. Madan Lal and others**', Criminal Revision No. 2049 of 2018 titled as '**The State of M.P. and others Vs. Shivendra Singh and others**' and Criminal Misc. Case No. 1771 of 2011 titled as **Vinod Kumar Tiwari Vs. State of U.P. and others**, *it was held* that merely on the statement of the complainant that he was not satisfied with cancellation report cannot be the sole ground to discard the cancellation report and the Court is to apply its mind to the factual matrix and only then pass appropriate orders.

Keeping in view the aforementioned facts the order dated 26.08.2022 stands quashed (Annexure P-3). The ACJM, Fazilka is directed to pass a fresh order on the cancellation report submitted before it within a period of two weeks from the date of receipt of a copy of this order.

Disposed off in the above terms.

(JASJIT SINGH BEDI)
JUDGE

31.07.2023
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No