



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

129

Date of decision: 29.07.2024

1.

CRM-M-5743-2022

MADHU GARG

Versus

STATE OF PUNJAB AND OTHERS

...Petitioner

...Respondents
2.

CRM-M-19906-2022

VANEET GARG

Versus

STATE OF PUNJAB AND OTHERS

...Petitioner

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Raghav Gulati, Advocate,
Mr. Varun Sharma, Advocate &
Mr. Gurpreet Singh, Advocate
for the petitioner in CRM-M-5743-2022 &
for respondent No.3 in CRM-M-19906-2022.

Mr. Navjot Singh, Advocate
for the petitioner in CRM-M-19906-2022 &
for respondents No.6 and 7 in CRM-M-5743-2022.

Mr. Pardeep Bajaj, DAG, Punjab.

KULDEEP TIWARI. J.(Oral)

1.

Both the petitions are arising out of the same FIR i.e. FIR No.09 dated 23.02.2015, under Sections 420, 467, 468, 471 and 506 of IPC, registered at Police Station City Malout, District Sri Muktsar Sahib, therefore, both the petitions are amenable to be decided together.
2.

CRM-M-5743-2022, preferred by the petitioner Madhu Garg, whereby, direction has been sought for seeking quashing of the impugned orders

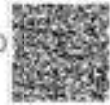


dated 29.12.2021 (Annexure P-20), and 03.02.2020 (Anneuxre P-11), passed by respondents No.3 & 4 respectively, whereby, the respondents have formulated a Special Investigation Team, for the purpose of re-investigation, on representations of accused persons.

3. CRM-M-19906-2022, preferred by petitioner Vaneet Garg, seeking quashing of the order dated 14.12.2021 (Annexure P-9), passed in FIR No.9 dated 23.02.2015, registered at Police Station City Malout, District Sri Muktsar Sahib, under Sections 420, 467, 468, 471 and 506 of IPC, whereby, the cancellation report submitted by the investigating agency was rejected.

4. The FIR (supra), has been registered against partners of the firm, on the statement of petitioner/complainant Madhu Garg, widow of late Sh. Shiv Charan Garg, on the allegations that Shiv Charan Garg was having joint business with his brothers namely Vaneet Garg, Satpal Garg, and Satish Garg, and unfortunately he died in the year 2004, and there were number of joint firms. After the death of Shiv Charan Garg, complainant/petitioner Madhu Garg, her sons Dinesh Garg and Deepak Garg were inducted as partners in all the joint firms. It was also alleged that the accused prepared a forged and fabricated retirement deed in the name of complainant, her sons relinquishing their share in the firm, Ram Sarup Garg Cotton Mills, Malout, thus, fraudulently grabbed their share in the above said firm.

5. During investigation, four persons namely Vinod Kumar Garg, Satpal Garg, Vaneet Garg, and Satish Kumar Garg, were nominated in the FIR (supra). Thereupon, one of the accused, Vinod Kumar Garg moved an application to the Senior Superintendent of Police, Sri Muktsar Sahib, pleading false implication.



Upon his application, the investigation was marked to Station House Officer, Police Station City Malout, and he came to the conclusion that FIR in question was false, and he recommended for cancellation of the instant FIR. The cancellation report was approved by Senior Superintendent of Police, Sri Muktsar Sahib, vide letter dated 23.09.2015. Accordingly, the cancellation report, as prepared was filed before the learned court of SDJM, Malout. The cancellation report was not accepted by the learned court of SDJM, Malout, and in fact the latter directed for re-investigation in the said FIR, vide its order dated 20.12.2016.

6. Thereupon, the Senior Superintendent of Police, Sri Muktsar Sahib constituted a Special Investigation Team to re-investigate the matter, and during investigation, names of Jugal Kishore, and Mangal Sen were nominated in the FIR, and offence under Section 120-B of IPC, was added in the FIR (supra). It was also surfaced in the investigation that the retirement deed in question, had been missed, so that the Special Investigation Team as constituted, added Section 201 of IPC to the FIR (supra).

7. Before the finding of the SIT could be finalised, the SIT so constituted by the Senior Superintendent of Police, Sri Muktsar Sahib was challenged by the accused persons, by making a representation before the Inspector General of Police, Bathinda Range, Bathinda, alleging therein, that the Chairman of the Special Investigation Team as constituted by the SSP concerned, did not collect any evidence, and further requested for conducting fair and impartial enquiry into the matter.

8. The Inspector General of Police, Bathinda Range, Bathinda, vide order dated 03.02.2020, constituted an another Special Investigation Team, to re-



investigate the case, consisting of the following Police Officers:-

- (i) *Sh. Narinder Bhargav, PPS, SSP, Mansa (Chairman).*
- (ii) *Sh. Major Singh, PPS, S.P., Special Branch Bathinda (Member).*
- (iii) *Sh. Sanjiv Goyal, PPS, DSP, Sardulgarh (Member).*

9. Interestingly, the above Special Investigation Team, as constituted by Inspector General of Police, Bathinda Range, Bathinda was dissolved by Inspector General of Police, Faridkot Range, Faridkot, vide order dated 24.08.2020, as new Range (Faridkot Range), was constituted by the Government of Punjab, and now District Sri Muktsar Sahib, and District Moga, came to be falling under the Faridkot Range i.e. new Range, however, there were no reasons coming forth, for re-constituting of a new Special Investigation Team, on constitution of new range. Nonetheless, the new investigation agency, after conducting the investigation, recommended for the cancellation report, and on 01.10.2021, the cancellation report was prepared, and the same was filed before the learned Illaqa Magistrate concerned. The cancellation report preferred by the prosecution agency was rejected by the learned Illaqa Magistrate concerned, vide order dated 14.12.2021. A perusal of the above order reflects that merely on the dissatisfaction shown by the complainant, learned trial Court concerned proceed to reject the cancellation report, and ordered for further investigation, vide order (supra).

10. Again vide order dated 29.12.2021, the Deputy Inspector General of Police, Faridkot, constituted a new Special Investigation Team to re-investigate the case, consisting of the following Police officers:-

- (i) *Sh. Kulwant Rai, Supdt. Of Police (P.B.I.), Faridkot.*



(ii) *Sh. Amarjit Singh, D.S.P., Sub-Division, Sri Muktsar Sahib.*

(iii) *Ins. Harbans Singh, Incharge, CIA Staff, Fardikot.*

11. The above officials after investigating the matter, had concluded that the allegations as alleged in the instant FIR are false, and recommend for cancellation. The cancellation report has been accepted up to the level of Deputy General of Police, and now they are awaiting the order of this Court, to file the report before the learned trial Court concerned.

12. This Court has heard the learned counsel for the parties concerned, and perused the record.

13. Ironically the FIR (supra) has exchange hands of various Special Investigation Teams, and till date Police is unable to conclude its investigation. At one point of time, the Special Investigation Team was formed by Senior Superintendent of Police concerned, and thereupon, by Inspector General of Police Bathinda Range, Bathinda, which was subsequently dissolved, merely on account of change of range, and this time the Special Investigation Team, as performed on the orders of Deputy Inspector General of Police. All these events raised some questions regarding the veracity, or authenticity of the investigation, as on date, conducted by the Punjab Police, which led both the parties aggrieved, and both the parties have come present before this Court, by filing the instant motion.

14. All though this Court is inclined to observe its view about the conduct of the Punjab Police, but restrain itself, at this stage, and is of the view that the desired results can be achieved by passing a mandamus upon the Director Bureau of Investigation, and to re-constitute the Special Investigation Team, which shall be headed by an officer of IPS rank, of an impeccable integrity,



preferably out of Bathinda, and Fardikot Range. The said Special Investigation Team shall within a period of 04 months, after affording adequate opportunity to both the parties concerned, to substantiate their respective claims, file its report with the authorities concerned, thereupon final report be submitted before learned Illaqa Magistrate/trial Court concerned, within one month.

15. It is made clear that if any application for extension of time is filed before this Court, same shall be considered with strict hands.

16. It is further made clear that no objection, by either of the parties, *qua* composition of Special Investigation Team constituted by Director Bureau of Investigation, shall be entertained, at any stage.

17. Both the petitions are **disposed** of accordingly.

29.07.2024
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(KULDEEP TIWARI)
JUDGE

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