

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

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**CRM-M-20987-2011 (O&M)**

**Reserved on: 09.02.2024**

**Pronounced on: 13.02.2024**

**2024:PHHC: 019554**

**RATTAN KAUR**

. . . . PETITIONER

**Vs.**

**STATE OF PUNJAB AND OTHERS**

. . . . RESPONDENTS

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**CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA**

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Present: - Mr. IS Ratta, Advocate, for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

Mr. Ankur Mittal, Advocate, with  
Mr. Siddhant, Advocate, for respondent No.2.

Mr. Bipan Ghai, Sr. Advocate with  
Mr. Nikhil Ghai & Mr. Deepanshu Mehta, Advocates,  
for respondent No.3.

Mr. P.S. Ahluwalia, Advocate, with  
Mr. Jaiveer Singh, Advocate, for respondent No.4.

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**DEEPAK GUPTA, J.**

By way of this petition filed under Section 482 of Code of Criminal Procedure, 1973, petitioner has prayed for setting aside the impugned order dated 15.04.2011 (Annexure P10) passed by Id. Judicial magistrate 1<sup>st</sup> Class, Hoshiarpur, accepting the cancellation report (Annexure P9) in respect of case FIR No.22 dated 02.03.2011 under Section 306/34 IPC registered at Police Station Mahilpur, District Hoshiarpur. Further prayer is made to direct the respondent-State to cause the matter investigated through a senior police functionary.

2.1 Jaswinder Pal Singh had joined the police force as a Constable in the year 1987 and over the period of time, he rose to the rank of Assistant Sub

Inspector. While he was posted at Police Station Goraya in District Hoshiarpur, he committed suicide on 01.03.2011 leaving behind a suicide note (Annexure P3), in which he blamed SHO, Police Station Goraya, namely Sarwan Singh (respondent No.3) and Head Constable Harjit Singh (respondent No.4), also working in Police Station Goraya at the relevant time.

2.2 On the complaint made by Smt. Jasbir Kaur (respondent No.2) widow of deceased Jaswinder Pal Singh, the FIR was registered. After conducted the investigation, cancellation report was submitted, to which the complainant-respondent No.2 raised no objection by making a statement to that effect and based thereon, the cancellation report was accepted by the Magistrate by way of the impugned order.

2.3 Petitioner-Smt. Rattan Kaur, the mother of the deceased Jaswinder Pal Singh, has challenged the impugned order passed by the Magistrate, whereby the cancellation report was accepted.

3.1 Ld. counsel for the petitioner contends that petitioner was also the complainant of the case having signed the complaint on which basis FIR was registered, but no notice was sent to her before accepting the cancellation report. Further submission made by ld. counsel is that incomplete cancellation report (Annexure P9) was produced before the Magistrate and based thereon the impugned order has been passed.

3.2 Ld. counsel further contends that in fact there used to be marital discord between the deceased and his wife-Smt. Jasbir Kaur and that later on Smt. Jasbir Kaur colluded with the accused named in the FIR i.e. respondents No.3 & 4 so as to make a statement raising no objection to the acceptance of the cancellation report and so on the basis of her statement the cancellation report should not have been accepted.

3.3 Ld. counsel contends further that respondents No.3&4 being the influential police officials managed to get the cancellation report prepared and therefore, the entire matter deserves to be investigated through senior police functionaries.

4.1 Ld. State counsel as well as counsels representing the respondents opposed the petition. It is contended by them that it is respondent No.2, who was the complainant of the case and that she made a statement raising no objection to accept the cancellation report and that petitioner being not the complainant, has neither the locus standi to challenge the acceptance of the cancellation report nor any notice was required to be served upon her.

4.2 Still further, it is contended that the remedy available to the petitioner was to file complaint before the jurisdictional Magistrate, in case she was not satisfied with the cancellation report. Ld. counsel for the respondents has placed on record certified copies of the relevant documents, so as to contend that petitioner availed that remedy by filing a complaint before the jurisdictional Magistrate, produced preliminary evidence therein, but as the petitioner realized that she was not likely to get favourable order, she withdrew the complaint.

4.3 Ld. counsel for respondents contends that having availed the remedy available to her, petitioner cannot be allowed to pursue this petition, which tantamount to forum shopping and thus, gross abuse of the process of law. Ld. counsel refers to '*Vijay Kumar Ghai and others vs. State of West Bengal and others*', (2002) 7 Supreme Court Cases 124.

5. Ld. counsel appearing for respondent No.4 has also pointed out that document Annexure P9, referred by ld. counsel for the petitioner as an incomplete cancellation report, in fact is not the cancellation report. Ld.

counsel has drawn attention towards the vernacular of Annexure P9, which has been placed on record as Annexure R2, which in fact is the report submitted by Superintendent of Police, Detective, Hoshiarpur, the in-charge of a Special Investigation Team, which report was submitted by him for necessary approval to Senior Superintendent of Police for submitting the cancellation report. The said report was approved by the SSP and thereafter, the cancellation report in the due format was submitted before the Court, the true copy of which is Annexure R3/T. Ld. counsel contends that it is the cancellation report submitted in the Court in the proper format, which was considered by the Magistrate and after serving notice to the complainant of the FIR, the cancellation report was accepted by way of the impugned order.

6. Submissions considered. Paper-book perused.

7. Perusal of the FIR (Annexure P14) would reveal that it was lodged on the statement of Smt. Jasbir Kaur (respondent No.2) stating therein that her husband was working in Police Department as ASI; that he was posted at Police Station Goraya, District Jalandhar; that there was marriage of her younger sister on 13.2.2011 and her husband had come to village Dhadan Kalan on 12.02.2011 and after attending the marriage, he left on 14.02.2011 at 8:00 PM along with his elder son Jasprit Singh. It was alleged that on 18.02.2011, HC Harjit Singh and one more person came to their house in Aiman Muglan and talked to her husband. Thereafter, her husband asked her to prepare food and left on motorcycle. Head Constable Harjit Singh etc. waited for an hour, but then left the place. On that day, her husband did not return. It was alleged further that Head Constable Harjit Singh and his companion also went to the village of her parents and searched for her husband and that they were threatening that if his address was not disclosed, action will be taken. It

was further stated by complainant-Smt. Jasbir Kaur that her husband was at home after 26.02.2011 and that on 27.02.2011, he had told her that police officials were harassing him; that SHO Swaran Singh was asking him to bring black money and that on 01.03.2011, her husband left home by telling that he was going to attend duty. Later on, she was informed that her husband had committed suicide.

8. The language of the compliant, which is the basis of the FIR, would reveal that it has been lodged by Smt. Jasbir Kaur, the widow of the deceased. However, the complaint as referred in the FIR, is signed not only by Jasbir Kaur, but also thumb marked by Rattan Kaur i.e. the petitioner-mother of the deceased. It is because of this reason that ld. counsel for the petitioner claims that petitioner was also the complainant and so, the notice should have been served upon her before accepting the cancellation report.

9.1 Perusal of the reply filed by the respondent-State would reveal that during the course of investigation, the Senior Superintendent of Police by its order dated 02.03.2011 i.e., on the same day, when the FIR registered, constituted a Special Investigation Team, comprising of the Superintendent of Police, Detective, Hoshiarpur; Deputy Superintendent of Police, Garhshankar and Station House Officer, Police Station, Mahilpur, who carried out a detailed and thorough investigation in the matter. During investigation, it came out that deceased used to remain frequently absent from the duty. On 12.02.2011, deceased had taken 2 days leave to attend the marriage of his sister-in-law and was to join back his duty on 15.02.2011. He did not join the duty. Regarding his absence, an entry was made in the Daily Diary Register. On 18.02.2011, respondent No.3 i.e. the then SHO, Police Station Goraya, had sent HC Harjit Singh to house of deceased regarding pending writ petitions/

applications/police files before this Court, but the deceased, after asking his wife to prepare meals, left the house on the pretext of bringing curd, but did not return.

9.2 It was further found during investigation that marriage of the deceased with respondent No.2 was performed in 2002 and 2 children were born from this marriage. Earlier the relationship between the deceased and his wife was not cordial. Her wife i.e. respondent No.2 had even filed a complaint against the deceased on 01.10.2008 before the SSP, Hoshiarpur regarding his misbehavior. Deceased had also filed divorce petition. Deceased had earlier even attempted to commit suicide by drenching his cloth with fuel on 31.12.2008 at the house of his in-laws. Deceased was saved at that time and the matter was reported to the police. It was also found that later on, the two families settled the dispute and started living together at village Aiman Muglan and that after the marriage of his sister-in-law, though the deceased was to join back his duty on 15.02.2011, but he did not join his duty and remained absent till he committed suicide on 01.03.2011.

9.3 It is further stated in the reply that during investigation, call details of the mobile phones of respondents No.3 & 4 were collected and no call was found to have been made to the deceased during that period. It was found that deceased used to remain under depression. He was also addicted to alcohol. It is because of all these reasons that he had committed suicide. Being in the state of shock and on the provocation of her relatives, respondent No.2 had got the FIR registered, but she later on raised no objection so as to accept the cancellation report.

10. It has also rightly been pointed out by ld. counsel for respondent No.4 that petitioner has wrongly or inadvertently obtained incomplete copy of

the report, which was submitted by the head of the SIT, to the Senior Superintendent of Police for approval of the cancellation report, instead of collecting the certified copy of the cancellation report submitted to the magistrate. The certified copy of the cancellation report in proper format, as was submitted before the Court is Annexure R3/T containing all the detailed reasons for cancelling the FIR.

11. It is apparent from the record that thorough investigation has been conducted by a Special Investigation team, headed by an officer of the rank of Superintendent of Police, Detective and no role of respondents No.3 & 4 was found in the crime. The report submitted by the said SIT was approved by the Senior Superintendent of Police and only then, the cancellation report was submitted before the Court and after providing opportunity of hearing to the complainant of the case i.e. respondent No.2, the cancellation report was accepted.

12. Being signatory to the complaint, which is the basis of FIR, even if it be presumed that petitioner being the mother of the deceased was aggrieved by the cancellation report, she had the remedy to approach the jurisdictional Magistrate. She availed that remedy. She filed a complaint bearing Registration No.21/14COMA not only against respondents No.3 & 4 of this case, but also against respondent No.2 to prosecute them under Sections 306/213/120B IPC. She produced preliminary evidence by examining Santokh Singh (CW1), Sat Pal (CW2), Rattan Kaur (CW3) and Dr. Gurinderjit Singh (CW4), but then made a statement before the Court on 28.11.2014 so as to withdraw the complaint on the ground that she had already filed petition before this Court. Based upon her statement, the complaint was dismissed as withdrawn by Id. JMIC, Garhshankar vide order dated 28.11.2014.

13. Having availed the alternative remedy of filing complaint before the Magistrate and having chosen to withdraw the complaint, petitioner cannot be now allowed to contend that cancellation report has been wrongly accepted or that further investigation should be ordered. As noticed above, investigation has already been done by SIT, headed by an officer of the rank of Superintendent of Police, which has been duly approved by Senior Superintendent of Police. This Court does not find any merit in this petition so as to set aside the impugned order, whereby the cancellation report was accepted; or to order for further investigation.

Dismissed.

13.02.2024

*Vivek*

(DEEPAK GUPTA)  
JUDGE

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| 1. Whether speaking/reasoned? | Yes |
| 2. Whether reportable?        | No  |