

202 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Neutral Citation No. 2024:PHHC:052048
CRM-M-15112-2022
Date of Decision: April 18, 2024

Kashmir Kaur and another ...Petitioners

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Prateek Pandit, Advocate for the petitioner.

Mr. Sahil R. Bakshi, AAG, Punjab.

DEEPAK GUPTA, J.(Oral)

On 08.04.2022, following order was passed by this Court:-

*“Learned counsel for the petitioner, inter alia, contends that in the present case, the impugned order dated 11.01.2022 is illegal inasmuch as, after the cancellation report was submitted, the Judicial Magistrate 1st Class-V, Kapurthala has ordered re-investigation from a higher officer. It is further submitted that the only reason which has been given for the same in the said impugned order is to the effect that the complainant was not satisfied, instead of considering if there was any fault in the investigation or what were the loopholes in the cancellation report. It is contended that the Magistrate does not have the power to order re-investigation from some higher Officer and at best, could have ordered further investigation. Learned counsel for the petitioners has placed reliance on the judgment of a coordinate Bench of this Court in **Ravinder Kumar Vs. State of Punjab reported as 2020(4) R.C.R. (Criminal) 137.***

Notice of motion for 30.05.2022.

Operation of the impugned order dated 11.01.2022 is stayed till the next date of hearing.”

2. Respondent No.2-complainant was duly served, but nobody has appeared on his behalf.

3. Learned State counsel has not refuted any of the aforesaid contentions, particularly to the effect that once the cancellation report is filed, the Magistrate cannot discard the same, simply for the reason that complainant was not satisfied with the same, unless the Magistrate gives elaborate reasons for dissatisfaction regarding the investigation conducted by the police.

4. In view of the aforesaid facts and circumstances, the impugned order dated 11.01.2022 (Annexure P-11) is hereby set aside. The Trial Court concerned is directed to pass a fresh order by giving the reasons for not accepting the cancellation report. It is made clear that simply because complainant is not satisfied with the cancellation report, cannot be a sole ground, so as to reject the cancellation report.

Disposed of.

April 18, 2024

sarita

(DEEPAK GUPTA)

JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No