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

**CRM-M No.24399 of 2024
Date of Decision: 25.07.2024**

Gurmeet Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. H. P. S. Bhinder, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

1. The petitioner has approached this Court praying for quashing of the impugned order dated 23.01.2024 (Annexure P-3) wherein the learned Judicial Magistrate First Class, Ludhiana has rejected the cancellation report dated 21.01.2024 filed by the Investigating Agency. Further prayer has been made for staying the further proceedings during the pendency of the present petition and subject to outcome of the same.

2. The precise submissions made by learned counsel for the petitioner are that the petitioner was involved in the business of sale & purchase of the properties and finance etc. One Sushil Kumar, who was also doing the business of sale & purchase of the properties and finance,



convinced the petitioner to carry out the said business jointly with him. The petitioner *bona fide* believed him and thus, started doing the business with him. He has submitted that the petitioner was regularly being paid the commission on the interest and under the garb of the said business, Sushil Kumar got signed number of blank papers from the petitioner, so as to secure the loans advanced to various parties at the behest of the petitioner. However a dispute cropped up between the petitioner and said Sushil Kumar with regard to the return of the loan and interest by one of the parties. Resultantly, Sushil Kumar got registered a false and fabricated case i.e. FIR No.54, dated 05.05.2019, under Sections 420 & 120-B of IPC, registered at Police Station Sadar, District Police Commissionerate Ludhiana.

3. Learned counsel for the petitioner has submitted that neither the petitioner nor his co-accused were signatory to the agreement to sell and even as per the FIR, the petitioner had no role in the execution of the said agreement. He has submitted that initially the Investigating Officer had failed to get the signature of the petitioner compared from FSL for ascertaining the authenticity of the version of the complainant and hence the investigation carried out was a tainted one. He submits that thereafter the disputed signatures were sent to the FSL for comparison of the disputed signatures with the standard signatures of the petitioner. He has submitted that FSL report dated 26.12.2023 had concluded that the disputed signatures on the agreement to sell do not tally with the standard signatures of the petitioner. He submits that on receiving the FSL report,



the Investigating Agencies filed the cancellation report dated 21.01.2024 under Section 173(8) Cr.P.C., however the same has been declined by the learned Judicial Magistrate First Class vide impugned order dated 23.01.2024. He submits that the observation made by the learned trial Court that the cancellation report could not be taken into consideration at this stage is totally unsustainable in the eyes of law. He has submitted that the cancellation report filed has been rejected by the learned trial Court in a mechanical manner. He has submitted that earlier the challan was filed without the FSL report, however on receiving the same, the Investigation Agencies have rightly filed the cancellation report by way of filing the supplementary challan. He submits that in the facts and circumstances of the case, it is apparent that prosecution of the petitioner is nothing but an abuse of the process of the Court, however the learned trial Court failed to appreciate the same and thus has passed the impugned order by rejecting the cancellation report filed. He has submitted that the impugned order being unsustainable in the eyes of law, deserves to be set aside.

4. The Court has heard learned counsel for the petitioner and perused the record with his able assistance.

5. On hearing learned counsel for the petitioner and perusing the record, it is deciphered that the FIR No.54, dated 05.05.2019 under Sections 420, 120-B of IPC was registered against the petitioner by the complainant, namely Sushil Kumar. On completion of the investigation, the challan was presented by the Investigation Agency. The learned trial



Court on presentation of the challan, had framed the charges and thus took the cognizance of the offence. However the Investigating Agencies on receiving the FSL report, had filed the cancellation report. The learned trial Court heard both the sides, however the cancellation report filed was rejected. It is evident from the record that the charges have already been framed and the cancellation report was filed by the prosecution on the basis of the FSL report received later on. From the facts and circumstances of the case, it is apparent that the learned trial Court had already framed the charges in this case. The case of the prosecution is not solely dependent on the report of the hand writing expert, which is received from the FSL. The learned Magistrate on receiving the cancellation report is at its liberty to examine the cancellation report filed and exercise his jurisdiction as per the mandate of the law. The learned trial Court had specifically observed that the cancellation report presented could not be taken into consideration at this stage which makes it abundantly clear that the petitioner has every right to avail his remedies on the basis of FSL report received at the appropriate stage during the trial.

6. Thus this Court does not find any infirmity in the view taken by the learned trial Court in ignoring the cancellation report filed by the prosecution when the charges were already framed. Hence the contentions raised by learned counsel for the petitioner are without any force and thus, the present petition is dismissed. However it is being clarified that the petitioner would be at liberty to avail the remedies of



raising contentions regarding the FSL report received at the appropriate stage during the trial while leading his defence evidence.

25.07.2024
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(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No