

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM M-32168 of 2022
Date of Decision: 23.04.2024

Nirmal Singh and another ...Petitioners
Versus
State of Punjab and another ... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Ravi Malhotra, Advocate, for the petitioners.

Mr. I.P.S. Sabharwal, DAG, Punjab

Mr. Baljinder Singh, Advocate for
Mr. Parvinder Singh, Advocate, for respondent No.2.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 of the Cr.P.C. with a prayer to quash the order dated 03.01.2022 (Annexure P-4) passed by the Court of Sub Divisional Magistrate, Balachaur, whereby, the cancellation report submitted by the police was rejected.
2. Initially, Dilbag Singh, respondent No. 2 had got registered FIR No. 11 dated 01.03.2020 under Sections 324, 34 and 326 IPC registered at Police Station Kathgarh, District Shaheed Bhagat Singh Nagar against the petitioners by alleging that both the petitioners had inflicted injuries to him. After the registration of the FIR, the investigation was conducted by various police officers and it was found that no offence was made against the petitioners and on

03.01.2022, the police had submitted a cancellation report before the Court of Sub Divisional Magistrate, Balachaur. On 03.01.2022, the complainant appeared before the Court and made a statement that he was not satisfied with the investigation of the police and did not agree with the cancellation report. Vide the impugned order, the Court of Sub-Divisional Magistrate, Balachaur, observed that in view of the submissions so made by the complainant, the cancellation report was not accepted. Challenging the said order, the petitioners have preferred the present petition before this Court.

3. During the course of arguments, learned counsel appearing on behalf of the petitioners as well as respondent No. 2 fairly submitted that the impugned order passed by the Sub-Divisional Judicial Magistrate was non speaking and in view of the various pronouncements made by this Court as well as Hon'ble Supreme Court, the impugned order was legally unsustainable. Learned counsel for the parties agreed that the impugned order may be set aside and the trial Court may be directed to pass a fresh order, by taking into consideration the cancellation report, submissions made by both the sides and the settled law.

4. On the other hand, learned State counsel submitted that after the registration of the FIR in the present case, the investigation was conducted by senior police officers including the Superintendent of Police (P.B.I.), SBS Nagar and it was established that there was only an exchange of hot words between Nirmal Singh and Dilbag

Singh, complainant and the occurrence had taken place in front of the house of the complainant. Neither Nirmal Singh nor Ekamdeep Singh had caused any injury to the complainant. Even, the CCTV footage produced by the complainant was also seen, in which, it could be seen there was verbal exchange between the petitioners and respondent No. 2. Ultimately, the police had recommended to file a cancellation report before the trial Court. However, the said report was illegally rejected by the trial Court by simply observing that the complainant had not agreed with the cancellation report. In fact, the impugned order was non speaking and the trial Court should have recorded reasons for rejection of the cancellation report, instead of taking into consideration the disagreement expressed by the complainant. Learned State counsel has relied upon the law laid down by this Court in the matter of ***Tarlochan Singh Sethi Vs. State of Punjab and another, 2015(8) R.C.R. (Criminal) 594***, wherein, this Court has observed as under:-

“15.While rejecting the cancellation report, the learned Magistrate was duty bound to record his own satisfaction instead of accepting mere disagreement of the complainant. It is so said because it is not the satisfaction of the complainant which matters, but it is the satisfaction of the Court which should be relevant factor for rejection or acceptance of a cancellation report, as held by this Court in Prithvi Raj Sehgal's case

(supra) as well as in **Kuldip Raj Mahajan's case** *(supra)*. It was further held that the learned Magistrate would be exceeding his jurisdiction, in case the summoning order is issued without considering the cancellation report. This is what is the fact situation of the present case, because learned Magistrate has not at all adverted to the cancellation report which was a self-contained document, before issuing impugned summoning order. Having said that, this Court feels no hesitation to conclude that the impugned protest petition as well as the summoning order, cannot be sustained”.

5. Still further, this Court has held in the matter of **Ravinder Kumar Vs. State of Punjab, 2020(4) R.C.R. (Criminal) 137** as follows:-

“8.The complainant being an interested party would obviously not be satisfied with the cancellation report. Recital in the impugned order dated 13.10.2018 that the complainant was not satisfied, in my considered view cannot be the sole ground to discard the cancellation report as the Sub-Divisional Judicial Magistrate has not elaborated the reasons of dissatisfaction of the complainant except to allege that the Police did not consider the material aspects of inquiry report dated 27.03.2018 conducted by the Additional Director

General of Police (Jails) Punjab, Chandigarh in favour of the petitioner”.

6. In view of the above discussion and without forming any opinion on the merits of the case, the Sub-Divisional Magistrate Balachaur, is directed to take into consideration the contents of the cancellation report, submissions made by both the sides and to pass fresh order, in accordance with law.
7. The petition stands disposed off, accordingly.

23.04.2024

amit rana

(N.S.SHEKHAWAT)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No