



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

CRM-M-45114-2024

Date of decision: 11.09.2024

Jasdev Singh Randhawa and Another

...Petitioners

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Viren Jain, Advocate for the petitioners.

Mr. J.S. Dhaliwal, AAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioners under Section 482 Cr.P.C/Section 528 of BNSS, 2023 seeking quashing of FIR No.99 dated 20.06.2022 Annexure P-3, registered at Police Station City Jagraon, District Ludhiana (Rural) under Sections 447, 441, 506, 120-B IPC and order dated 18.04.2024 Annexure P-10 passed by the Court of Illaqa Magistrate, Jagraon whereby the cancellation report dated 18.10.2023 submitted by the investigating agency was not accepted by the said Court, on the sole ground of disagreement to same of the complainant/respondent No.2 and cancellation report is returned with direction to re-investigate the matter and to submit report within three months.

2. The counsel for the petitioners submits that petitioners and father of respondent No.2 are co-owner in the joint property. As per settled position of law, a co-sharer has an interest in the entire joint property and also in every parcel of it and the possession of joint property, even by one



co-sharer is in eye of law, possession of all co-sharer. It is further submitted that false allegations of trespass and intimidation were leveled by respondent No.2 in FIR Annexure P-3. The matter was investigated by the police and police presented cancellation report Annexure P-8 against the petitioners. The learned Court of Illaqa Magistrate simply rejected the said cancellation report just on the ground that respondent No.2 has disagreed with the same and further no reason was given by the said Court while passing the impugned order Annexure P-10 whereby direction was given to re-investigate the matter. It is further submitted that in the light of the law laid down by this Court in CRM-M-39693-2021 titled ***Nitesh Bhardwaj Vs. State of Punjab and Another*** decided on 11.10.2021, the impugned order Annexure P-10 deserves to be set aside being non speaking order. It is further submitted that the Court of Illaqa Magistrate was having no jurisdiction to direct the police to re-investigate the matter. Counsel for the petitioners further submits that he is restricting his arguments only with regard to illegality of impugned order Annexure P-10.

3. I have considered the submissions made by counsel for the petitioners.

4. From the persual of order Annexure P-10, it is evident that the cancellation report Annexure P-8 was rejected by the Court of Illaqa Magistrate without assigning any reason except for the fact that the complainant had shown his disagreement to the said cancellation report.

This Court in **Nitesh Bhardwaj's case** (supra) observed as follows:-

“It is true that the Magistrate while accepting or rejecting the cancellation report cannot compel investigating agency to change its opinion or to form a particular opinion or to submit

challan, but certainly Court can give reasons for directing the police to undertake further investigation. While rejecting the cancellation report, the Magistrate is duty bound to record its own satisfaction instead of accepting mere dis-agreement of the complainant. It is not the satisfaction of the complainant which would ultimately matter, but it is the satisfaction of the Court which would be relevant factor for acceptance or rejection of the cancellation report. Ratio laid down in [Prithvi Raj Sehgal's case \(supra\)](#), Tarlochan Singh 6 of 7 Sethi's case (supra) and Ravinder Kumar's case (supra) can be relied in the aforesaid context.”

5. Admittedly, in the present case, order Annexure P-10 was passed by the Court of Illaqa Magistrate without recording its satisfaction that the matter requires further investigation as is required as per the ratio laid down in **Nitesh Bhardwaj’s case (supra)**. Further, the Magistrate Court is having no jurisdiction to direct the police to re-investigate the matter in question. However, the said Court is having jurisdiction to direct the police to undertake further investigation, in case the Court is not satisfied with the cancellation report submitted by the police.

6. In light of the above, without expressing any opinion on the merits of the case, the impugned order is Annexure P-10 is set aside. The Court concerned is directed to pass a fresh order in accordance with law by recording its own satisfaction as per the legal parameters as are detailed in **Nitesh Bhardwaj’s case (supra)**. The petitioners are directed to appear before the Court of Illaqa Magistrate concerned within next three weeks.

11.09.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

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