



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

(261)

**CRM-M-7666-2019 (O&M)
Date of Decision: 24.9.2025**

Rachna Devi

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Gurinder Pal Singh, Advocate
for the appellant.

Mr. Brijesh Sharma, AAG, Haryana.

Mr. Ajay Kamboj, Advocate and
Ms. Kiranpreet Kaur, Advocate
for respondent No. 2.

KIRTI SINGH, J. (ORAL)

1. The present petition has been filed under Section 482 Cr.P.C. seeking quashing of the impugned the impugned order dated 14.1.2019 (Annexure P-8) passed by the learned Additioal Sessions Judge, Sirsa, whereby the revision petition filed by respondent No. 2 against the order dated 14.5.2018 (Annexure P-7) passed by the learned Judicial Magistrate, Sirsa, has been allowed and the order dated 14.5.2018 was set aside.

2. Brief factual matrix relevant for the adjudication of the present petition is that an FIR bearing No. 158 dated 20.8.2014 under Sections 354 and 354-A IPC was registered at Police Station Nathusari Chopta, district Sirsa, against respondent No. 2 at the instance of the petitioner, levelling allegations of sexual harassment at the workplace. Investigation was carried



out, whereafter a cancellation report was presented before the learned trial Court, which then issued notice to the petitioner regarding the same. She appeared before the learned trial Court and expressed her dissatisfaction with the investigation, and the case was adjourned for the purpose of filing protest petition vide order dated 22.08.2016. Subsequently, an application dated 29.04.2017 for summoning respondent no. 2 was moved by the petitioner, upon which respondent no. 2 was summoned by the learned trial Court vide order dated 14.05.2018. The said order was challenged in revision before the learned ASJ, Sirsa, who vide impugned order dated 14.1.2019 (Annexure P-8) set aside the same, and remanded the matter back to the trial Court to proceed in accordance with law. Aggrieved, the petitioner has preferred the instant petition.

3. Learned counsel for the petitioner submits that respondent No.2, a doctor at the Primary Health Centre where the petitioner was working as a staff nurse, subjected the petitioner to sexual harassment at the workplace and also made threats. A complaint regarding the same was made by the petitioner, whereupon her statement under section 164 CrPC was recorded. In the FIR so lodged, shoddy investigation was carried out, for which the petitioner had to approach the SSP, who then ordered for investigation on 01.05.2015. An application thereafter for the conduct of the polygraph test of both the parties was moved. As per the report of the polygraphy test dated 5.8.2015 (Annexure P-2), the petitioner co-operated in the said test, whereas respondent No.2 refused to undergo the same. However, despite there being sufficient material on record against respondent no. 2, including statements of witnesses who pointed out his misbehaviour towards the petitioner, the investigating agency proceeded to file cancellation report against respondent No. 2. The petitioner then appeared before the learned trial Court, upon



notice issued to her, and apprised the Court that she did not agree with the said report and wished to continue with the case. Thereafter, an application dated 29.04.2017 seeking summoning of respondent No. 2, was moved by the petitioner, and he was rightly summoned, after examining the entire material on record, by the trial Court vide order dated 14.05.2018. However, the revisional Court, in complete contravention of the settled law, set aside the order and remanded back the case to the trial Court, vide impugned order dated 14.01.2019, to proceed in accordance to law, directing the petitioner to file and protest petition and lead preliminary evidence. It is submitted that it is settled law that the Magistrate, upon receipt of a cancellation report, can either accept the same, reject it and summon the accused, or direct further investigation. In the instant case, the learned trial Court, after analysing the entire evidence on record, ordered the summoning of respondent No. 2 upon finding sufficient material to establish a *prima facie* case against him. However, the learned Revisional Court critically erred in law by being swayed by the fact that the petitioner had taken time to file the protest petition, and as such the matter had to proceed as being a complaint case. It is therefore prayed that the impugned order deserves to be set aside.

4. Per contra, learned counsel for respondent No. 2 submits that the impugned order was passed after appreciating the entire factual matrix of the case and discussing the procedure established under law. It is submitted that the trial Court had already taken cognizance of the offence when upon appearance of the petitioner after filing of the cancellation report, at which stage, instead of accepting the said report or summoning the accused, directed the complainant to file a protest petition. Since the Court had already chosen a particular procedural course, it could not, at the instance of the petitioner, who instead of doing the needful and filing the protest petition



moved an application for summoning of respondent No.2, allow that application and order summoning. The same, it is submitted, amounted to reviewing of its own decision, something which is impermissible in law. The revisional Court set aside this infirmity by way of the order dated 14.1.2019.

5. Heard the rival submissions of both the learned counsel for the parties.

6. The point for consideration before this Court is whether the revisional Court was, given the facts and circumstances of the present case, was right in setting aside the order summoning respondent No. 2 and remanding back the matter to the trial court to proceed with the filing of the protest petition and preliminary evidence, in accordance with law.

7. It would be apposite here to first look at the chronology of the proceedings that took place before the learned trial Court. Pertinently, FIR in the instant case was registered on 20.08.2014, and upon completion of investigation, cancellation report was presented on 16.08.2016. Notice regarding the same was issued to the petitioner, whereafter she appeared before the learned trial Court, and the following order was passed on 22.08.2016:-

“Complainant has appeared in person in pursuance of notice issued to her and made statement that she is not satisfied with the police investigation and want to file a protest petition. In view of statement of complainant, case adjourned to 15.9.2016 for filing protest petition, if any.”

8. Subsequently, the matter was adjourned for the said purpose on six dates. On, 29.04.2017, an application for summoning respondent No.2 was moved by the complainant, and the same was ordered by the learned trial Court on 14.05.2018. The said order was challenged before the revisional Court, which set aside the summoning order.



9. The law with respect to the course of action available to the Magistrate upon filing of a cancellation report is well settled. In the case at hand as well, the learned revisional Court in the instant case, while applying the dictum of law as reiterated by the Hon'ble Supreme Court in ***Minu Kumari v. State of Bihar, 2006 (3) RCR (Criminal) 271***, and ***Rakesh and Another vs. State of U.P. and Another, Criminal Appeal No.1412 of 2014*** decided on 13.08.2014 to the facts of the instant case, concluded that at the stage of the filing of the cancellation report when the Magistrate could have accepted the same or rejected it and summoned the accused, it exercised the option of adjourning the case for the purpose of filing of the protest petition by the complainant/informant, which was not done; instead, an application to summon the accused was submitted on 29.04.2017, acting on which the trial Court summoned respondent No. 2 by way of the impugned order. This course of action amounted to a review of the earlier judicial decision, which the trial Court was not empowered to undertake. Consequently, the criminal revision was allowed, the summoning order dated 14.05.2018 was quashed, and the matter was remanded to the trial Court concerned with directions to proceed by calling for a protest petition and recording preliminary evidence, as envisaged in the procedure established by law.

10. In light of the foregoing discussion and in view of the judgments referred to herein-above, this Court is of the considered view that the impugned order was passed after taking into account all the facts and circumstances. The same being speaking, well reasoned and based upon correct appreciation of facts needs no interference.

11. As a corollary, the present petition stands dismissed. The impugned order dated 14.1.2019 (Annexure P-8) is maintained and affirmed.



12. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

September 24, 2025
Gurpreet Singh

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