



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

CRM-M-13454-2025 (O&M)

Reserved on : 31.7.2025

Pronounced on: 5.8.2025

Dr. S.N. Manikanandan

..... Petitioner

VERSUS

State of Haryana and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Puneet Sharma, Advocate, for the petitioner.

Mr. Ramesh Kumar Ambavta, DAG, Haryana.

Mr. Neeraj Yadav, Advocate for respondent No.2.

KIRTI SINGH, J.

1 This petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) has been filed for quashing of impugned order dated 3.7.2024 passed by the learned JMIC, Rewari.

2 Brief factual matrix leading to the filing of the present petition is that the aforesaid FIR was registered against the present petitioner on the statement of the respondent. After thorough investigation, the allegations so levelled against the petitioner were found to be false, and a cancellation report to that effect was prepared by the investigating agency. Kalandra proceedings were also initiated against respondent no. 2 under section 182 IPC. Meanwhile, the complainant



proceeded to file a 'complaint-cum-protest petition' against the petitioner on the same set of allegations, wherein the magistrate proceeded as per the provisions of section 200 CrPC. When the police filed the cancellation report before the trial Court in the FIR pending against the petitioner, the magistrate order the clubbing of the same with the 'complaint-cum-protest petition'. The impugned order vide which the same was ordered to be done, is under challenge in the present *lis*.

3. Learned counsel for the petitioner submits that the learned magistrate, by passing the impugned order, has acted outside the scope and ambit of the procedure which is to be followed incase of filing of a cancellation report by the investigating agency. It is submitted that the magistrate is bound to either accept or reject the cancellation report filed before it, or order for further investigation. The same was reiterated by the Hon'ble Supreme court in the case of ***Zunaid Vs. State of U.P. And Ors., Criminal Appeal Nos.2628-2629 Of 2023***, decided on 29.08.2023. Learned counsel contends that by not taking a decision on the cancellation report and by directing the same to be clubbed with the 'complaint-cum-protest petition' that was moved by respondent no.2 even prior to the filing of the cancellation report, the magistrate has in essence kept the FIR lodged against the petitioner alive, which is causing great prejudice to the petitioner, who has already suffered a great deal due to the malicious motives of respondent no.2. It is further highlighted that the allegations levelled against the petitioner were false to such an extent that the



investigating agency even initiated kalandra proceedings against respondent no.2. Reliance is placed upon the judgments passed in **Upinder Singh @ Opinder Singh @ Kaku Vs. Hardeep Singh (CRM-M-28032-2016 decided on 10.2.2022), Savera Sidhu Vs. Harleen Sidhu (P&H), 2011 (2) RCR (Criminal) 442, Rattan Chand Vs. Lachhman Dass (P&H), 2014(4) RCR (Criminal) 162 and Lakha Singh Vs. State of Punjab, 1998(1) RCR (Criminal) 713.**

4 *Per contra*, the learned counsel for respondent No.2 as also learned counsel for the state submit that the impugned order suffers from no illegality. The same was passed by the learned magistrate after following due procedure under section 210 Cr.PC.

5 It is settled law that upon filing of a cancellation report under section 173 CrPC, the magistrate may either accept the same and drop the proceedings against the accused; reject the same and take cognizance of the offence; or reject the same and direct further investigation in the matter.

6 In cases where there is a complaint case and police investigation in respect of the same offence, the provision under section 210 CrPC comes to play, the bare language of which reads thus:

(1) When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to appear to the Magistrate, during the course



of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject-matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such enquiry or trial and call for a report on the matter from the police officer conducting the investigation.

(2) If a report is made by the investigating police officer under section 173 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report.

(3) If the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of this Code.

7 A perusal of the aforesaid, put in a simplified way, makes it clear that when a complaint is made before the trial Court with respect to the same offence for which police investigation is underway, in that



scenario the Magistrate ought to stay the proceedings in that complaint and call for a report from the police. On receipt thereof, the magistrate may either take cognizance of the offence and inquire into/ try together the complaint case and the case arising out of the police report; or in alternate, not take cognizance of any of any offence based on the police report, and thereafter proceed with the inquiry/ trial which was stayed by him in the complaint case.

8 Reverting to the facts in the present petition, the fact which is of material significance in the adjudication of the case is the chronology of events. Pertinently, the cancellation report, though prepared on 31.10.2023, was presented only on 01.07.2024. Meanwhile, in the interregnum, the complainant proceeded to file a private complaint dated 14.02.2024, having the nomenclature of 'complaint-cum-protest petition', that too at a premature stage when the cancellation so prepared by the investigating agency was not even presented before the trial court. Surprisingly enough, the trial Court, instead of following due procedure under Section 210 CrPC and staying the proceedings under the complaint, took cognizance and carried out the procedure as envisaged in section 200 CrPC. When the procedural lapse came to the notice of the trial Court, a further error of clubbing the cancellation report with the 'complaint-cum-protest petition' was committed by way of the impugned order dated 03.07.2024.

9 In view of the foregoing discussion, the petition stands allowed. The impugned order dated 03.07.2024 is set aside, and the matter is remanded back to the trial Court, to first take a decision on the police report in accordance with law, and thereafter proceed with the enquiry in the complaint case by following due procedure.

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

5.8.2025
Ramandeep Singh

(KIRTI SINGH)
JUDGE

Whether speaking / reasoned	Yes / No
Whether Reportable	Yes/ No