

CRM-M-24829-2018 (O & M)

2025:PHHC:145948



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(294)

CRM-M-24829-2018 (O & M)
Reserved on:16.10.2025
Date of Pronouncement: 27.10.2025

Dalip Kaur and anr.

..... Petitioners

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Gopal Singh Nahel, Advocate,
for the petitioners.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

Mr. Vivek Aggarwal, Advocate and
Mr. G.S. Verma, Advocate,
for the complainant.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the impugned order dated 18.05.2018 by which the cancellation report submitted by the police had been rejected and the directions for re-investigation have been issued in FIR No.109 dated 15.02.2016 under Sections 420, 177, 465, 467, 468, 472 and 120-B IPC and Section 12 of the Passport Act, 1976, Police Station Sudhar, District Ludhiana.



2. The brief facts of the case are that an FIR No. 109 dated 15.02.2016 under Sections 420, 177, 465, 467, 468, 472 and 120-B IPC and Section 12 of the Passport Act, 1976, Police Station Sudhar, District Ludhiana (Annexure P-1) came to be registered at the instance of Gurjit Singh against the petitioners.

3. On an investigation being conducted, a cancellation report (Annexure P-3) was submitted before the Judicial Magistrate Ist class, Jagraon, District Ludhiana. The Court rejected the cancellation report (Annexure P-3) and directed a further investigation to be conducted as per order dated 18.05.2018 (Annexure P-4).

4. It is this order (Annexure P-4) which is under challenge in the present petition.

5. The learned counsel for the petitioners *inter alia* contends that a re-investigation could not have been ordered only on the basis of the statement of the complainant that he did not accept the cancellation report (Annexure P-3). The Court ought to have independently examined the cancellation report and only if it had come to the conclusion that the investigation had not been conducted in a proper manner, could have ordered a re-investigation. The same not having been done, the impugned order dated 18.05.2018 (Annexure P-4) is liable to be quashed and the concerned Court be directed to consider the cancellation report (Annexure P-3) on merits and only then proceed in accordance with law. Reliance is placed on

‘Prithvi Raj Sehgal versus State of Punjab and others 2007(2)



RCR(Criminal) 438 and Nitesh Bhardwaj versus State of Punjab and another (CRM-M-39693-2021 decided on 11.10.2021)’.

6. The learned counsel for the State and the counsel for the complainant, on the other hand, contend that the investigation conducted is a tainted one and therefore, a re-investigation has been ordered by the Court. Therefore, the present petition is liable to be dismissed.

7. I have heard the learned counsel for the parties.

8. In ***‘Prithvi Raj Sehgal versus State of Punjab and others 2007(2) RCR(Criminal) 438’***, this Court held as under:-

7. After hearing the counsel for the parties and in the facts and circumstances of the case, I find merit in the contentions raised by the counsel for the petitioner. In this case, after 33 years of the marriage of the petitioner with the complainant, a complaint under Sections 406/498-A/506 Indian Penal Code was filed by the complainant/respondent No. 2. Out of the wedlock, two children were born. In this case, three times, the police submitted cancellation reports after conducting thorough investigation by different police officers. The allegations levelled by the complainant were found to be false. The J.M.LC., Patiala vide order dated 5.8.2003 rejected the cancellation report second time without application of mind, merely on the asking of the complainant that she was not satisfied with the investigation conducted by the police. Once a cancellation report is submitted to the Judicial Magistrate, he can reject the same by giving the reasons and refer the matter for further investigation; or he can take cognizance of the offence himself, but he cannot reject the cancellation report merely on the ground that the complainant is not satisfied with the investigation. It is within the purview of the investigating agency to investigate a case. The submission of the charge-sheet or the final report depends



upon the nature of the opinion formed by the investigating agency. The Magistrate cannot compel the investigating agency to take a particular view in the investigation or to change its opinion so as to accord with the view of the Court. In Harinder Pal Singh's case (supra), it has been held by this Court as under :

"In Chapter XIV of the Code of Criminal Procedure (hereinafter referred to as 'the Code'), the police has been given ample powers for the purpose of registering the case involving a cognizable offence and its investigation. Section 173 of the Code provides for an investigation to be completed without unnecessary delay and also makes it obligatory on the Officer-in-charge of the Police Station to send a report to the magistrate concerned in the manner indicated therein, containing the various details. If the Police submits a report under Section 173 of the Code to the effect that a case is made out for sending the accused for trial, the Magistrate is not bound to accept the opinion of the Police. It is open to the Magistrate, to take the view that the facts disclosed in the report do not make out an offence for taking cognizance or he may take the view that there is no sufficient evidence to justify and accused being put on trial. On the other hand, if the Magistrate agrees with the report, then he will take cognizance of the offence. In case, the Police submits a report stating therein that no case is made out against the accused for sending him for trial, the Magistrate, agreeing with the report, may accept the final report and close the proceedings, but the Magistrate may also take a view on consideration of the final report that the opinion framed by the Police is not based of full and complete investigation and in such a situation, the Magistrate can order for further investigation. It is always open for the Magistrate to decline to accept the closure report and direct the police to further investigate the matter but once the closure report is not accepted by the Magistrate and the matter has been ordered to be re-investigated, then for the second time the Magistrate cannot compel the Police to take a particular view in the matter and submit the challan in the case. If the Magistrate does not agree with the opinion formed by the Police and still suspects that an offence has been committed, he is entitled, notwithstanding the opinion of the Police, to take cognizance under Section 190(1)(c) of the Code, but in my opinion, he cannot direct the police to re-investigate the matter for the third time.

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Thus, from the aforesaid judgments, it is clear that the Police is the master of the investigation and formation of opinion as to whether, on the material collected, a case is made out to



place the accused for trial is the exclusive function of the officer in charge of the Police Station and/or his superior officers. The Magistrate, while accepting or rejecting the report, cannot compel the investigating agency to change its opinion and to form a particular opinion or to submit the challan. The formation of the said opinion by the police is the final step in the investigation and that final step is to be taken only by the Police and not by other authority."

8. In light of the aforesaid legal position, the impugned orders passed by the J.M.I.C., Patiala, rejecting the cancellation reports submitted by the police, did not give any valid reasons. In the three cancellation reports annexed with the police, reports detailed reasons have been given by the investigating agency finding the accused innocent. The Judicial Magistrate has not gone through the contents of the cancellation reports and rejected the same arbitrarily while observing that the complainant is not satisfied with the police investigation. It is not the complainant, but the court, which is to be satisfied about the investigation conducted by the police in a case. If the Magistrate is not satisfied with the cancellation report submitted by the police, for some recorded reasons, he can reject the cancellation report and order for further investigation in the matter. But every time, he cannot reject the cancellation report arbitrarily and order for further investigation in the case by the police. In case the Magistrate is of the opinion that the cancellation report is not based on full and complete investigation and he is of the opinion that sufficient material against the accused is available on the record, he can take cognizance of the offence under Section 190(1) of the Code, but time and again he cannot order for re-investigation of the matter. In the facts of this case, particularly in view of the allegations made by the complainant after 33 years of the marriage, which have been investigated thrice by different police officers and found to be false, I do not find any reason not to accept the cancellation reports submitted by the police.

In ‘Nitesh Bhardwaj versus State of Punjab and another



[8]. *Perusal of the impugned order would show that only consideration that has been made by the trial Court is the dissatisfaction of the complainant party. Dis-satisfaction of the complainant party qua the cancellation report is a normal instinct and that criteria alone cannot be formed basis for ordering further investigation.*

[9]. *It is a settled principle of law that the Court dealing with the cancellation report has to record its own satisfaction while accepting or rejecting the cancellation report. Cancellation report can be rejected by the Court by giving reasons and by doing so, the Court can refer the matter for further investigation also. The Court can take cognizance of its own as well, but the Court cannot reject the cancellation report merely on the ground that the complainant is not satisfied with the investigation.*

[10]. *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 Sethi's case (supra)** and **Ravinder Kumar's case (supra)** can be relied in the aforesaid context.*

[11]. *On consideration of aforesaid legal position, it would be just and appropriate to direct Judicial Magistrate Ist Class, Batala to re-visit the issue and pass appropriate order in accordance with law. Impugned order dated 14.09.2021 is set aside on this sole ground of not recording satisfaction by the trial Court while passing the impugned order. This petition is accordingly allowed. This Court*



refrains from observing anything on merits of the case. Trial Court is directed to pass a fresh order in accordance with law by recording its own satisfaction as per legal parameters as discussed above.

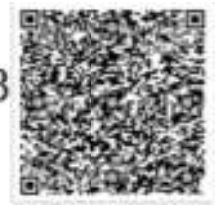
9. A perusal of the aforementioned judgments would show that a further investigation/re-investigation cannot be ordered merely on account of the fact that the complainant has stated that he is not satisfied with the investigation conducted. Once a cancellation report is submitted, the Magistrate can reject the same by giving reasons or refer the matter for further investigation. He also has the option of taking cognizance of the offence himself. However, the question of rejecting the cancellation report and sending the same back for re-investigation on account of the fact that the complainant is not satisfied with the investigation, does not arise.

10. Coming back to the facts and circumstances of the instant case, a perusal of the impugned order dated 18.05.2018 (Annexure P-4) would reveal that the Court has not applied its mind to the material on record and has simply ordered a re-investigation on the statement of the complainant that he did not agree with the cancellation report (Annexure P-3) presented by the police. This order cannot be sustained in view of the judgments in ***Prithvi Raj Sehgal and Nitesh Bhardwaj (supra)***.

11. Keeping in view the aforementioned discussion, I find considerable merit in the present petition and therefore, the impugned order dated 18.05.2018 (Annexure P-4) and subsequent proceedings arising therefrom are quashed. The Judicial Magistrate Ist Class, Jagraon, District

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Ludhiana is directed to pass a fresh order after examining the cancellation report (Annexure P-3) and then proceed in accordance with law.

12. This petition is allowed in the above terms.

13. The pending application(s), if any, shall stand disposed of accordingly.

October 27, 2025
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No