



134 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18971-2025

Date of decision: 07.04.2025

RAKESH PURI

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Prateek Pandit, Advocate for the petitioner.

Mr. Subhash Godara, Addl. A.G., Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 528 BNSS, 2023 for quashing of order dated 31.01.2025 (Annexure P-11) passed by learned Judge, Special Court, Kapurthala in case stemming from FIR No.114 dated 11.04.2018 registered under Section 22 of NDPS Act, 1985 at Police Station Sultanpur Lodhi, District Kapurthala, whereby the cancellation report has been rejected and re-investigation has been ordered.

2. Learned counsel for the petitioner *inter alia* contends that learned jurisdictional Court, while passing the impugned order on 31.01.2025 has ordered re-investigation which is not permissible in terms of the judgment rendered by this Court in ***Pawan Kharbanda vs. State of Punjab and another*** in ***CRM-M-3193 of 2025 (O & M)*** decided on 29.01.2025.

3. Learned State counsel appears on advance notice and very fairly submits that the facts are apparent on record and the impugned order is required to be set aside and a direction is required to be issued to the



jurisdictional Court to decide it afresh in terms of the judgment passed by this Court in ***Pawan Kharbanda (supra)***.

4. Having heard learned counsel for the parties and in view of the stand taken by learned counsel for the parties, it transpires that the order passed by jurisdictional Court on 31.01.2025 (Annexure P-11) is not sustainable in view of the judgment rendered by this Court in ***Pawan Kharbanda (supra)***. Further, the impugned order does not satisfy the objective standard of reason and justice and the same has been passed in a mechanical manner. Reliance in this regard can be placed upon the judgment passed by Division Bench of this Court in ***Mithabhai Pashabhai Patel and others vs. State of Gujarat, 2009(7) SCALE 559*** and the judgment passed by Hon'ble Supreme Court in ***Ramachandran v. R. Udhayakumar, 2008(3) RCR (Criminal) 47***.

5. Relevant paragraph of the judgment passed by this Court in ***Pawan Kharbanda (supra)*** is reproduced hereunder:

“a) As already clarified, there is no legislative mandate that empowers the Magistrates to order re-investigation. Further, the concept of re-investigation has not been prescribed in criminal matters by the legislature. The role of the Magistrates in evaluating the Cancellation Report is, therefore, strictly confined to the legal options available under the Cr.P.C. (now BNSS). In fact, when a cancellation report is presented by the Investigating Officer, concluding that no offence appears to have been committed, the Magistrate has the following three options:

(i) Accept the report and drop the proceedings.

(ii) Disagree with the report, take cognizance of the offence and issue process.

(iii) Direct further investigation by the police under Section 156(3) of Cr.P.C (now Section 175(3) of BNSS).”



6. In view of the above, the impugned order dated 31.01.2025 (Annexure P-11) is set aside and the jurisdictional Court is directed to pass a fresh order in view of law laid down in *Pawan Kharbanda (supra)*, after granting due opportunity to the petitioner, to demonstrate the shortcomings in the investigation, if any, within 08 weeks.

7. Disposed of accordingly.

April 07, 2025
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(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No