

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M-34645-2019 (O&M)

Azad Singh ...Petitioner

Versus

State of Haryana and another ...Respondents

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	07.05.2026
2	The date when the judgment is pronounced	11.05.2026
3	The date when the judgment is uploaded on the website	11.05.2026
4	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Divyam Dhakla, Advocate
for the petitioner.

Ms. Himani Arora, DAG, Haryana.

MANISHA BATRA, J.

1. The instant petition has been filed under Section 482 of the Code of Criminal Procedure (*for short 'the Code'*), which corresponds to Section 528 of BNSS, 2023, seeking quashing of Calandra/DD No. 22 dated 11.09.2018, under Section 182 of the IPC, filed by respondent No.2-SHO, Police Station Safidon in FIR No. 267 dated 27.06.2017, under Sections 148, 149, 386 and 506 of IPC and Section 25 of the Arms Act, 1959 at Police Station Safion, District Jind and all the subsequent proceedings having emanated therefrom.

2026.PHHC.071825



2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR had been registered on the basis of a written complaint submitted by the petitioner/complainant alleging that on the intervening night of 26/27.06.2017, 7-8 unknown persons armed with pistols forcibly entered into his house and demanded ₹27 lakhs and otherwise threatened to kill him and his family. After registration of the FIR, investigation proceedings were initiated. During investigation, Section 452 IPC was also added. Thereafter, the police conducted investigation and ultimately prepared a cancellation report alleging the allegations to be false and subsequently initiated proceedings under Section 182 IPC against the petitioner by presenting a Calandra on 11.09.2018. Feeling aggrieved from filing of the complaint/Calandra, the present petition has been filed by the petitioner.

3. It is argued by learned counsel for the petitioner that the impugned proceedings under Section 182 of IPC are wholly illegal, arbitrary and liable to be quashed. It is argued that the petitioner had lodged a genuine complaint regarding forcible trespass into his house by 7-8 armed persons, consequent thereto, the aforementioned FIR No. 267 had been registered. However, the police failed to conduct a fair investigation and in collusion with the accused persons, intentionally ignored material facts and hurriedly prepared a cancellation report. It is further argued that respondent No.2 had no jurisdiction to initiate proceedings under Section 182 of IPC against the petitioner, inasmuch as respondent No.2 was not the Investigating Officer of

2026.PHHC.071825



the case. The impugned Calandra has been initiated by the same authority before whom the complaint was lodged, which is impermissible in law in view of Section 195 of the Code, as proceedings under Section 182 of IPC can only be initiated by a superior authority.

4. It is further argued by learned counsel for the petitioner that the cancellation report submitted by the police had been accepted by the competent Court only on 04.07.2023, whereas the impugned Calandra was filed on 11.09.2018 and, therefore, the very initiation of proceedings under Section 182 of IPC against the petitioner stands vitiated on this ground alone and amounts to abuse of process of law. It is, thus, urged that the petition deserves to be allowed, thereby quashing the impugned Calandra along with all the subsequent proceedings having emanated therefrom. To buttress his arguments, In support of his contentions, learned counsel relies upon the judgments in *Tarlochan Singh v. State of Punjab, 2007 (3) RCR (Criminal) 791*, *Kuljit Singh v. State of Haryana and others, CRM-M-38769-2011, decided on 27.05.2015*, *State of Punjab v. Brij Lal Palta, AIR 1969 SC 355*, *Banta Singh v. State of Haryana, 1985 (3) RCR (Criminal) 133*, *Kehar Singh v. State of Punjab, 2012 (1) RCR (Criminal) 458* and *Neeraj Jain v. State of Punjab, 2012 (2) RCR (Criminal) 257*.

5. Reply has been filed by the respondent-State. Learned State counsel has argued that on conducting thorough investigation in the aforesaid FIR, lodged by the present petitioner, it was found that the allegations levelled by the petitioner were false and he had not been able to produce any

2026.PHHC.071825



corroborative evidence to substantiate the allegations. On finding the allegations so levelled to be untrue, a cancellation report was prepared on 26.09.2017 before the jurisdictional Magistrate. It is argued by learned State counsel that the information given by the petitioner to the police had been found to be false and since such information was shown to have been given with an intent to cause the police officials to use their lawful power to the injury of the persons named as accused therein, therefore, the petitioner had committed offence under Section 182 of IPC and, therefore, it is urged that the aforesaid impugned Calendra had rightly been prepared and filed against the petitioner. Therefore, it is urged that there is no merit in the present petition and the same is liable to be dismissed.

6. This Court has heard the rival submissions.

7. The primary issue which arises for consideration before this Court is as to whether proceedings under Section 182 of IPC could have been validly initiated against the petitioner prior to acceptance of the cancellation report by the competent Magistrate and whether continuation of such proceedings would amount to abuse of process of law. It is not disputed that FIR No.267 dated 27.06.2017 was registered on the basis of the complaint moved by the present petitioner alleging commission of cognizable offences punishable under Sections 148, 149, 386 and 506 IPC and Section 25 of the Arms Act and during investigation, Section 452 IPC was also added. It is further not in dispute that though the investigating agency prepared a cancellation report on 26.09.2017, the same came to be accepted by the

2026.PHHC.071825



competent Court only on 04.07.2023. However, before acceptance of the cancellation report, respondent No.2 proceeded to initiate proceedings under Section 182 of IPC, vide impugned Calandra/DD No.22 dated 11.09.2018. The legal issue involved in the present matter is no longer *res integra*. In ***Brij Lal Palta***'s case (*supra*), the Hon'ble Supreme Court held that where proceedings on the basis of the original complaint are still pending consideration before the Magistrate, prosecution under Section 182 IPC on the same set of allegations would not be justified as it may result in circumvention of the safeguards contemplated under Section 195 of the Code. It was further held that such proceedings would virtually amount to prejudging the allegations made by the complainant. Reliance placed by learned counsel for the petitioner upon the judgment of this Court in ***Tarlochan Singh***'s case (*supra*) is also well founded, wherein this Court held that till the cancellation report is accepted by the competent Court, proceedings under Section 182 of IPC cannot be permitted to continue as the same would amount to prejudging the complaint lodged by the informant. It was further observed that continuation of proceedings under Section 182 of IPC during pendency of proceedings arising out of the FIR would amount to abuse of the process of Court. Similar view was reiterated by this Court in ***Kuljit Singh***'s case (*supra*), wherein it was categorically held that initiation of proceedings under Section 182 of IPC prior to acceptance of the cancellation report is legally unsustainable. Reference can also be made to ***Banta Singh's case***, ***Kehar Singh's case***, ***Neeraj Jain's case***, ***Randhir v. State of Haryana and others***,

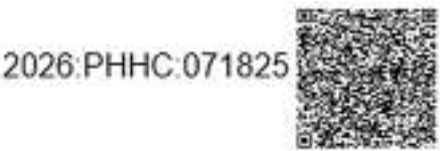
2026.PHHC.071825



2003 (4) RCR (Criminal) 651, Sharda Devi v. State of Haryana, 2018(2) RCR (Criminal) 54 and Yash Pal Singh vs. State of Haryana and another, CRM-M-3228-2023, decided on 16.05.2023, wherein similar view has been taken by this Court.

8. In the present case also, the cancellation report admittedly had not attained finality on the date when the impugned Calandra dated 11.09.2018 was filed. The competent Court accepted the cancellation report much later on 04.07.2023. Therefore, on the date of initiation of proceedings under Section 182 of IPC, the allegations levelled by the petitioner in the FIR were still subject matter of judicial scrutiny before the Magistrate. Consequently, initiation of proceedings under Section 182 IPC at that stage was clearly premature and legally untenable.

9. Further, a perusal of Section 195(1)(a) of the Code would show that cognizance for offences under Sections 172 to 188 IPC can only be taken on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate. In the present case, the complaint/FIR had been lodged before the SHO concerned and the very same authority proceeded to initiate proceedings under Section 182 of IPC. Though learned State counsel attempted to justify the same, however, this Court finds substance in the contention raised on behalf of the petitioner that initiation of proceedings by the same authority in the peculiar facts of the present case further reinforces the arbitrary nature of the impugned action.



10. It is well settled that the inherent powers vested in this Court under Section 528 of BNSS are meant to prevent abuse of the process of law and to secure the ends of justice. Continuation of the impugned proceedings, despite settled legal position noticed hereinabove, would amount to unnecessary harassment of the petitioner and abuse of process of Court. Accordingly, the present petition is allowed and impugned Calandra/DD No.22 dated 11.09.2018 under Section 182 of IPC filed by respondent No.2 in FIR No.267 dated 27.06.2017 registered at Police Station Safidon, District Jind and all consequential proceedings arising therefrom are hereby quashed.

11.05.2026

Waseem R. Ansari

(MANISHA BATRA)

JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>