



2026:PHHC:049977



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CRM-M-57645-2025

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

Sr. No.151

**CRM-M-57645-2025
Reserved on:-23.03.2026
Pronounced on:01.04.2026
Uploaded on:-**

*Whether only operative part of the judgment is
Pronounced or the full judgment is pronounced: operative part/full judgment*

RAJESH KUMAR

...Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

....Respondents

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present:- Mr. K.S. Dadwal, Advocate
for the petitioner.

Mr. H.S. Wadhwa, DAG, Punjab.

MANDEEP PANNU, J.

1. The present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed for setting aside the impugned order dated 15.09.2025 passed by the learned Sessions Judge, Hoshiarpur, whereby the revision petition filed by respondent No. 2 has been allowed (Annexure P-16), and order dated 29.08.2024 passed by the learned Judicial Magistrate First Class, Hoshiarpur (Annexure P-14) has been set aside and the matter has been remanded for fresh consideration. The said FIR No. 181 dated 22.07.2021, registered under Sections 420, 468 and 471 of the Indian Penal Code at Police Station Model Town, Hoshiarpur (Annexure P-1), is also subject matter of the present petition.



2. Briefly stated, the present case arises out of FIR No. 181 dated 22.07.2021 registered under Sections 420, 408 and 201 of the Indian Penal Code at Police Station Model Town, Hoshiarpur. During investigation, the police submitted a cancellation report before the learned Ilaqa Magistrate, concluding that no sufficient material was found to proceed against the accused. Upon presentation of the cancellation report, the learned Ilaqa Magistrate issued notice to the complainant. However, despite issuance of notice, the complainant did not appear before the Court and the notices were received back unserved with the report that the complainant was not available at the given address. Thereafter, the learned Magistrate vide order dated 29.08.2024 accepted the cancellation report.

3. Feeling aggrieved against the said order, the complainant filed a revision petition before the learned Additional Sessions Judge, Hoshiarpur. Notice of the revision petition was issued to the State as well as to respondent No. 2/accused. Learned counsel for the petitioner, learned Additional Public Prosecutor for the State and learned counsel for respondent No. 2 appeared before the Revisional Court and addressed arguments. The learned Additional Sessions Judge, while placing reliance upon the judgment of the Hon'ble Supreme Court in "***Bhagwant Singh versus Commissioner of Police and another, AIR 1985 SC 1285***", held that it was mandatory for the Magistrate to afford an opportunity of hearing to the complainant before acceptance of the cancellation report. It was further held that the impugned order passed by the Magistrate suffered from violation of principles of natural justice. Consequently, the revision petition



was allowed, the order dated 29.08.2024 was set aside and the matter was remanded back to the learned Magistrate for fresh consideration after affording an opportunity of hearing to the complainant.

4. Feeling aggrieved by the impugned judgment dated 15.09.2025 passed by the learned Additional Sessions Judge, Hoshiarpur, the present petition has been filed by the petitioner.

5. Learned counsel for the petitioner has contended that the impugned order dated 15.09.2025 passed by the learned Sessions Judge, Hoshiarpur is illegal and liable to be set aside. It is argued that the requirement of informing the complainant regarding submission of the cancellation report stood duly complied with in view of the order dated 22.05.2023 passed by this Hon'ble Court in *CRM-M No. 31724 of 2021*, wherein the State counsel, on instructions, had informed about preparation and filing of the cancellation report. It is further contended that the learned Magistrate had duly issued notices to respondent No. 2/complainant at the address mentioned in the FIR and the record reflects that multiple opportunities were granted, however, the complainant failed to appear. Thus, it is argued that there was due compliance of principles of natural justice and the learned Sessions Judge erred in holding otherwise. It is further submitted that respondent No. 2 has already filed a private complaint on the same set of allegations and once such remedy has been availed, there was no occasion to revive the proceedings arising out of the FIR. It is also contended that the learned Magistrate had granted liberty to file a protest petition and therefore, the revision petition itself was not maintainable. Reliance has also been



placed upon the judgment in “*Pinder Kaur vs. State of Punjab and others, 2015 (26) RCR (Criminal) 57*”, to contend that once a cancellation report is accepted and no protest petition is filed, the remedy lies elsewhere and the revisional jurisdiction ought not to have been invoked.

6. Learned State counsel has also argued on the same lines as that of the petitioner. However, no notice was issued to respondent No. 2 in the present petition, the matter being short in question.

7. I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record of the case.

8. The primary challenge in the present petition is to the order dated 15.09.2025 passed by the learned Sessions Judge, Hoshiarpur, whereby the revision petition filed by respondent No. 2/complainant has been allowed and the matter has been remanded to the learned Magistrate for fresh consideration after affording an opportunity of hearing to the complainant. A perusal of the impugned order shows that the learned Sessions Judge has relied upon the settled proposition of law laid down by the Hon’ble Supreme Court in *Bhagwant Singh vs. Commissioner of Police and another (supra)*, wherein it has been categorically held that before acceptance of a cancellation report, the Magistrate is required to afford an opportunity of hearing to the complainant. The requirement of granting an opportunity of hearing to the complainant before acceptance of the cancellation report is not an empty formality, but a mandatory safeguard to ensure compliance with the principles of natural justice. The learned Sessions Judge, upon appreciation of the record, has found that such an



opportunity was not effectively afforded and, therefore, rightly set aside the order passed by the learned Magistrate.

9. This Court finds no illegality or perversity in the view taken by the learned Sessions Judge. The remand of the matter is only for the limited purpose of ensuring compliance with the mandate of law and principles of natural justice. No prejudice is caused to the petitioner/accused by such remand, as he would have full opportunity to put forth his case before the learned Magistrate in accordance with law. In fact, the impugned order merely restores the matter to the stage where the complainant is to be heard, which is a procedural safeguard, and does not in any manner adjudicate upon the merits of the case against the petitioner. During the course of arguments, it was also brought to the notice of this Court that after remand of the case, the subsequent order dated 24.02.2026 downloaded from the official website reveals that the complainant has already appeared before the Court of learned Judicial Magistrate 1st Class, Hoshiarpur and the matter is pending for consideration.

10. In view of the above, no ground is made out to interfere with the impugned order dated 15.09.2025 passed by the learned Sessions Judge, Hoshiarpur.

11. Accordingly, the present petition is dismissed.

12. All pending applications, if any, also stand disposed of.

(MANDEEP PANNU)
JUDGE

01.04.2026

Anu

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