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

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**CRM-M-30552-2022 (O&M)  
Date of decision: 23.09.2025**

**Nishan Singh Sidhu @ Nishan Singh**

**...Petitioner**

**Versus**

**State of Punjab**

**...Respondent**

**CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Piyush Sharma, Advocate  
for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab.

**MANISHA BATRA, J. (Oral)**

1. The instant petition has been filed by the petitioner under Section 482 of the Code of Criminal Procedure (for short 'the Code') for quashing of order dated 14.05.2022, passed by the Court of learned Chief Judicial Magistrate, Ferozpur in case arising out of FIR No. 31 dated 08.02.2013, registered under Section 409 of IPC at Police Station City Ferozpur, whereby while rejecting the cancellation report submitted by the police, direction had been given to submit final report or to suggest the accused to avail the remedy for quashing of FIR and consequent proceedings.

2. Briefly stated, the petitioner had been booked in the aforesaid FIR for commission of offence punishable under Section 409 of IPC on the basis of a complaint lodged by complainant Harjinder Singh Randhawa, District Manager, Housefed alleging that the petitioner was designated as

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Secretary in the department of Housefed in the year 1991. Some persons had taken loan for construction of their houses from Housefed. These loanees/borrowers were under the supervision of the petitioner and he used to make collection of money as installments of loan from these borrowers. He, however, did not deposit the amount so collected and converted the same to his personal use. He usurped an amount of Rs.12,76,211/-, which was to be deposited with Housefed. After registration of the FIR, investigation proceedings were initiated. It was found that no loss had been caused to the department of Housefed or Government. A cancellation report had accordingly been prepared and presented before the jurisdictional Magistrate on 14.05.2022.

3. It is submitted by learned counsel for the petitioner and the material placed on record reveals that when the aforementioned cancellation report had been presented before the jurisdictional Magistrate, he rejected the same by giving direction to either submit final report or to ask the accused to avail remedy for quashing of FIR and consequent proceedings. Feeling aggrieved from the said order, the present petition has been filed.

4. It is argued by learned counsel for the petitioner that the impugned order is not sustainable in the eyes of law as after receipt of the closure report, the Magistrate could have declined to accept the police report or could have accepted the same but could not have given any direction to the police to submit the chargesheet nor he could have directed the petitioner to avail remedy of quashing of FIR. It is, therefore, urged that the impugned order is liable to be set aside. To fortify his argument, learned counsel for the petitioner has relied upon the authority cited as *Vasanti Dubey vs. State*

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***of Madhya Pradesh, 2012 (1) RCR (Criminal) 588.***

5. Respondent-State has filed reply. No serious objection has been raised qua the prayer made by the petitioner.

6. This Court has heard the submissions made by learned counsel for the parties and has also gone through the material available on record.

7. On a perusal of the impugned order dated 14.05.2022, it is revealed that it was one untraceable report that had been presented before the learned trial Court but it was clarified by it that said report was actually a cancellation report. The learned trial Magistrate, after noticing that the cancellation report was prepared on the ground that the petitioner had deposited the money back with the department concerned i.e. Housefed, observed that the cancellation report could not be accepted on that ground. Even the statement of the complainant was not recorded and direction was given to the police to either submit the final report or to ask the accused to avail remedy of quashing of FIR. The well settled proposition of law is that a Magistrate may or may not accept any such report filed before it and may take action according to law but he cannot impinge upon the jurisdiction of the police by compelling it to change its opinion so as to accord with his view. If a Magistrate disagrees with a final report/cancellation report, he can take cognizance under Section 190(1)(c) of the Code (*which is pari materia with Section 210 of BNSS*) or order for further investigation under Section 156(3) of the Code (*which is pari materia with Section 175(3) of BNSS*) but cannot straightaway direct for submission of chargesheet to the police. Reliance in this regard can be placed upon the observations made by Hon'ble Supreme Court in ***Abhinandan Jha and others vs. Dinesh Mishra,***

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*AIR 1968 Supreme Court 117*. Further, reliance can be placed upon the authorities cited as *Ram Naresh Prasad vs. State of Jharkhand, 2010 (6) RCR (Criminal) 92* and *Bains vs. State, AIR 1980 Supreme Court 1883*, wherein it was observed by Hon'ble Supreme Court that after completion of investigation, if the police sends an adverse report under Section 173(1) of the Code i.e. closure report, the Magistrate, if he agrees with the police report and finds that there is no sufficient ground for proceeding further, he may drop the proceeding and dismiss the complaint/accept the closure report. He may agree with the police report and may take cognizance of the offences on the basis of the original complaint under Section 190(1)(a) of the Code and proceed to examine the complainant under Section 200 of the Code and even if he disagrees with the police report, he may either take cognizance at once upon the complaint, direct an inquiry under Section 202 of the Code. It was observed that, however, the Magistrate cannot direct the police to submit chargesheet, though he can order for further investigation. Similar observations were made by Hon'ble Supreme Court in *Vasanti Dubey's* case (supra).

8. In the instant case, on receipt of cancellation report, learned Chief Judicial Magistrate, however, neither agreed with the cancellation report thereby passing order for cancellation of the FIR nor did he order for further investigation. He also did not choose to take cognizance of the offence on the basis of the original complaint and treat the report as a private complaint. Rather, he gave direction to the police to submit final report and also gave direction to the petitioner to file petition for quashing of FIR. In view of the ratio of law as laid down in the aforecited authorities, such

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course could not be adopted by the learned Magistrate. As such, the impugned order, passed by the learned Chief Judicial Magistrate, is not sustainable in the eyes of law and is liable to be set aside. Accordingly, the petition is allowed. The impugned order is set aside. The case is remanded to the Magistrate concerned for granting one opportunity of hearing to the petitioner/his counsel as well as complainant and then pass a fresh order in accordance with law and in the light of this order within a period of one month thereafter.

**23.09.2025***Wassem Ansari***(MANISHA BATRA)  
JUDGE***Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*