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HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU
(THROUGH VIRTUAL MODE)

CRM(M) 247/2021

CrlM(672/2021)

CrlM(674/2021)

Ajeet Chopra

...Petitioner(s)

Through:- Mr. Ayushman Kotwal, Advocate
v/s

Union Territory of J and K and others

....Respondent(s)

Through:-Mr. Aseem Sawhney,AAG

Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER

1. Through the instant petition, the petitioner has challenged order No. SPSJ/ Rdr/20/9332-36 dated 03.08.2020 issued by the Superintendent of Police, City South, Jammu/respondent No.3 whereby the said respondent has, inspite of the investigation in the case FIR No. 03/2020 for offences under Section 380 IPC registered with Police Station, Satwari having been closed as not admitted by the orders of Senior Superintendent of Police, Jammu/respondent No.2, directed further investigation of the case.

2. It is case of the petitioner that the aforesaid FIR came to be registered against the petitioner and investigation into the same was set into motion. After investigation of the case, the investigating officer arrived at a conclusion that allegations against the petitioner are not substantiated and as such, a report in this regard was submitted by the investigating officer to respondent No. 5/Dy. Superintendent of Police, SDPO, City South, Jammu, who in turn, vide his report dated 02.07.2020 submitted the matter to respondent No.2/Senior Superintendent of Police, Jammu. It is the further

case of the petitioner that respondent No.2/SSP, Jammu accepted the recommendation of the respondent No.5 and vide his order dated 06.07.2020 accorded approval to the conclusion of the investigation of the case as not admitted. It has been contended that respondent No.3 surprisingly, after accord of the approval to closure of the case by respondent No.2 vide his order dated 06.07.2020 issued the impugned order observing that the investigation of the case has not been carried out in professional manner and thereafter transferred the investigation to incharge of Police Post, Chatha.

3. The main and only contention of learned counsel for the petitioner is that once a superior officer of Police has approved the closure of a case as not admitted, it is not open to an officer who is inferior in rank to flout the aforesaid order and direct reinvestigation of the case.

4. The respondents were directed to file response particularly with reference to the aforesaid contention of the petitioner and the same has been received. As per the response submitted by respondent No.2/Senior Superintendent of Police, Jammu vide his affidavit dated 03.06.202, it has been admitted that on the recommendations made by the SDPO, South, the case was concluded as not admitted and ratified by the then SSP, Jammu. The affidavit further goes on to admit that the impugned order issued by SP, City South, Jammu directing reopening of the investigation of the case, is not in accordance with law.

5 In view of what has been submitted by respondent No. 2 in his affidavit nothing remains to be determined because the said respondent has admitted the position that once respondent No.2 had accorded approval to

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the closure of case as not admitted, it was not open to respondent No.3 to direct re-investigation of the case.

6. Thus the course adopted by respondent No.3 in this case not only amounts to abuse of process of law but it also smacks of insubordination. If at all there was any scope for re-investigation of the case, respondent No.3 could have placed his opinion before his superior officer, the respondent no.2 instead of taking it upon himself and directing further reinvestigation of the case. The impugned order passed by respondent no. 3 is, therefore, not sustainable in law and as such, the same deserves to be quashed.

7. For the forgoing reasons, the petition is allowed and impugned order dated 03.08.2020 passed by respondent No. 3 directing reinvestigation of the case is quashed, leaving it open to the respondents to proceed in the matter in accordance with law. The relevant authorities of the Police Department are at liberty to take appropriate disciplinary action against respondent No.3 for having acted in a manner which smacks of insubordination.

8. The petition is disposed of, accordingly.

(SANJAY DHAR)
JUDGE

JAMMU
04.06.2021
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Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No