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Criminal Law, procedure

6 months ago 3 Replies

Report



Ziaul Haque Ansari Advocate

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Upon the petition filed u/s 156(3) cr.p.c a case was started for offences punishable under section 420/467/468/471 ipc. Accused got ad interim bail. After completion of the investigation, investigating officer submitted its report u/s 173 cr. P. c. In the form of F.R.F. (Final report false) stating that that the complainant has filed a baseless and false case and further prayed for drawing up a proceedings u/s 182/211 ipc against the complainant. Complainant filed a protest petition seeking re-investigation/further investigation. NOW, MY QUERRY IS, what is the procedure to be followed now Whether the protest petition is to be heard first Or The complainant has to face and contest the proceedings u/s 182/211 and if he succeeds in the said proceedings, then only his protest petition can be taken up for hearing.

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If the Magistrate has accepted the final report of police then the same Magistrate cannot entertain your protest petition, but action under 182/211 IPC for lodging the false and fabricated complaint as recommended by the police.

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Ziaul Haque
Ansari ▾

Advocate

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Magistrate is yet to accept the final report. Two views have arose at this stage...no 1...whether the protest petition is to be heard and disposed first or No2....whether the prayer for prosecuting the defacto complainant is to taken up first. Please enlighten with law/procedure with section or any case law in this regards

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🕒 6 months ago



Dear Zia Ansari, please read your first query, "after completion.....182/211 IPC". Now from where the complainant received the authentic report that police has filed the Final Report and has asked the court for action under 182/211 IPC against the complainant? Did the complainant received any notice or summon about it? Then how, he has submitted the

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protest petition for reinvestigation or further investigation?
Now reinvestigation and further investigation are totally two different things. On the contrary, further investigation request could have been made by the police, but police has already submitted the FR, so no chance of further investigation order by the court. If, the complainant would want the reinvestigation, then he can only do it if he states under oath with the names of the eye witnesses, who have not been examined by the Police, but still it will be further investigation and not reinvestigation. Actually your first query lacked many ifs and buts, so there is no straight answer to it. I can accede to your request, but it is very hard to confine the procedure in few words or few lines. Moreover I am not so apt in typing. Sorry dear for inconvenience to you.

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