

CWP No.13707 of 2015

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

CWP No.13707 of 2015

Date of Decision: July 13, 2015

Iqbal Singh Sabharwal & others

...Petitioners

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Abhishek Arora, Advocate
for the petitioners.

AUGUSTINE GEORGE MASIH, J. (Oral):

Petitioner No. 1, Director of petitioner Nos. 2 and 3-Firms, has approached this Court by filing the present writ petition praying for quashing of the FIR No. 239 dated 17.07.2007, under Sections 406, 420, 467, 468, 471 and 120-B IPC, registered at Police Station Kharar (Annexure P-14), challan dated 10.09.2011/13.09.2011 (Annexure P-26) and the supplementary challan dated 23.04.2013 (Annexure P-30). Prayer has also been made for issuance of a writ of mandamus directing the Central Bureau of Investigation to conduct an impartial enquiry into the personal bias and conduct of the Senior Superintendent of Police, SAS Nagar-respondent No. 5 and directing the respondents State of Punjab and Union of India, to take appropriate action against him.

As regards the first prayer of petitioner No. 1 is concerned, the challenge to the FIR No. 239 dated 17.07.2007,

CWP No.13707 of 2015

cannot be sustained in the light to the order passed already concerning the said FIR in CRM-M No. 17156 of 2012, titled as 'Iqbal Singh Sabharwal and another vs. State of Punjab and another' by this Court on 08.05.2013 (Annexure P-42) where the counsel for the petitioners prayed for withdrawal of the petition with liberty to challenge the subsequent challan which may be filed.

The challan and the supplementary challan which are challenged in the present writ petition, copies of which have been appended as Annexures P-26 and P-30 respectively, are pending consideration before the trial Court. It is admitted that till date, no charge has been framed. The ground on which the petitioner No. 1 is asserting that the impugned challans cannot be sustained, primarily is based on the further investigation which has been carried out by the respondents under Section 173 (8) of the Code of Criminal Procedure (hereinafter referred to as 'Cr.P.C') which is subsequent to the presentation of the challans which are assailed by petitioner No. 1 may be taken note of by the Court at the time of framing the charges as per law. It would be premature, at this stage, to rely upon the report dated 09.05.2014 (Annexure P-40) submitted under Section 173 (8) of Cr.P.C. or to give any opinion while exercising extraordinary writ jurisdiction under Article 226 of the Constitution of India. This Court, in the present case, does not find any such situation where the petitioner No. 1 has been left remediless so far as the challans under challenge are concern.

With regard to the prayer of petitioner No. 1 for referring

CWP No.13707 of 2015

the case to the Central Bureau of Investigation with regard to the conduct of the Senior Superintendent of Police, SAS Nagar-respondent No. 5, suffice it to say that the matter is still pending consideration with the respondent authorities on the basis of the complaint submitted by petitioner No. 1 which is apparent from the communication addressed by the Deputy Inspector General of Police, Rup Nagar Range, Rup Nagar, dated 14.02.2013 (Annexure P-37), on an application submitted by petitioner No. 1, wherein, a detailed report has been called for from the Senior Superintendent of Police, District SAS Nagar. Similar is the position with regard to the subsequent communication dated 07.04.2013 (Annexure P-38), where again, the application of petitioner No. 1 has been sent with direction to the Senior Superintendent of Police, SAS Nagar, for report and comments in reply to the complaint. Apart from that, petitioner No. 1 has also been complaining earlier which also have been taken cognizance of by the higher authorities and comments thereon called for from respondent No. 5 but the grievance of petitioner No. 1 has not been redressed as the said complaints have not been responded to by respondent No. 5 despite directions by higher authorities.

Learned Senior Counsel further states that even directions were issued that he should not be dealing with the case which has been registered against petitioner No. 1 but that also has not been complied with by respondent No. 5. In this regard, he has referred to the communications which were sent by the Additional

CWP No.13707 of 2015

Director General of Police, Crime, Punjab to the Senior Superintendent of Police, SAS Nagar, copies of which have been appended as Annexure P-25 (colly).

Keeping in view the above position, the prayer of petitioner No. 1 with regard to directing the enquiry to be held by the Central Bureau of Investigation, is not accepted, however, direction is issued to Director General of Police, Punjab-respondent No. 2 to look into the matter and take appropriate steps, in accordance with law, if so required, within a reasonable period of time preferably within a period of four months from the date of receipt of certified copy of this order.

Anything said or observed herein above will not have any bearing or effect on the merits of the case and the challans pending adjudication before the Court below.

This writ petition stands disposed of with the abovesaid directions/observations.

July 13, 2015

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**