

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19555 of 2016

Date of Decision: 21.09.2016

Pardeep Kumar

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Keshav Pratap Singh, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.

1. No ground for interference is made out to stay the departmental proceedings or keep them in abeyance pending criminal trial. The petitioner is a Constable in Haryana Police. He is facing a criminal trial in a corruption case registered under Section 13 read with Section 7 of Prevention of Corruption Act, 1988 before the Special Judge, Palwal.

2. Learned counsel for the petitioner admits that the evidence of prosecution witnesses has been completed in the criminal trial and they have resiled from their previous statements. Only the formal witnesses are left to be produced by the prosecution. Simultaneously, the Police Department has initiated departmental proceedings for misconduct on which the petitioner says are based on the same set of allegations and, therefore, his defence in the trial will be prejudiced if his evidence in the domestic trial is allowed to

be recorded. It is not known from the file of the present paper-book whether the witnesses produced by the prosecution in the criminal trial are identical to the witnesses relied upon by the prosecution in the departmental proceedings and, therefore, nothing can be said with any certainty on the question of “same set of allegations” though there may be a rule that on the same set of allegations which is subject matter of criminal proceedings. a delinquent facing disciplinary action in domestic proceedings should not be compelled to disclose his defence earlier to the criminal proceedings which have reached the stage of evidence but at the same time Courts have cautioned that due regard has to be paid to the nature of the offence/misconduct charged, the type of evidence required to bring it home, whether it is oral or documentary, the prejudice that may be caused and so many other and myriad factors which all will have to be taken into consideration before returning a verdict in favour of the petitioner to order status quo on the departmental proceedings. None of this has been argued in the petition either in the pleadings or at the address and it was upon a Court query that the learned counsel for the petitioner when pointedly asked was unable to answer whether the prosecution witnesses in the criminal trial and prosecution witnesses in the domestic trial were identical to avoid overlapping and therefore prejudice. For interference and injunctive relief by writ court a strict scrutiny is required on the material presented with a strong prima facie case made out on merits, if not cast iron.

3. Therefore, I would find hardly any sufficient or valid reason to accept the prayer of the petitioner blindly on the materials placed on record to direct by a mandamus the respondent police department to keep in

abeyance the pending departmental proceedings and to stultify them to await the result of the criminal trial to an unknown point of time. Interference is not called for at the premature stage without serious prejudice pleaded and prima facie proved or established beyond reasonable doubt or violating fundamental principles in Article 21 of the Constitution.

4. For these reasons, the petition stands dismissed.

(RAJIV NARAIN RAINA)
JUDGE

21.09.2016
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Whether speaking/reasoned Yes

Whether reportable Yes