

CRM-M-20749-2017 (O & M)

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

CRM-M-20749-2017 (O & M)

Date of Decision: 02.06.2017

Pal Pabla and others

... Petitioners

Versus

Gurnam Singh, Deputy Director, Directorate of Enforcement

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Mandeep Singh Sachdev, Advocate,
for the petitioners.

INDERJIT SINGH, J.

CRM-18866-2017

Allowed as prayed for, subject to all just exceptions.

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Petitioners-Pal Pabla, Ranjit Kaur and Piara Singh have filed this petition under Section 482 Cr.P.C. for quashing of the order dated 20.02.2017 passed by learned Special Judge, Jalandhar whereby application filed by the petitioners under Section 210 Cr.P.C. for clubbing the complaint case bearing No.CON-A-2/2014, 11.03.2015, under Sections 5(5) and 45 (1) of the Prevention of Money Laundering Act, 2002, titled as 'Gurnam Singh vs. Pal Singh and others' with case bearing FIR No.131 dated 13.09.2014, registered at Police Station Nawanshahr, under Sections 420, 177, 191, 206,

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207 and 120-B of the Indian Penal Code, was dismissed.

I have heard learned counsel for the petitioners and have gone through the record including the impugned order.

Learned counsel for the petitioners argued that both the complaint and FIR case relate to one transaction and as per Section 210 Cr.P.C., both these cases should be clubbed.

Section 210 Cr.P.C. provides as under:

“210. Procedure to be followed when there is a complaint case and police investigation in respect of the same offence:

(1) When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject-matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation.

(2) If a report is made by the investigating police officer under [Section 173](#) and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report.

(3) If the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall

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proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of this Code.

Perusal of the record shows that a complaint was filed by Zonal Office of the Enforcement Directorate, who had conducted searches under the provisions of the Foreign Exchange Management Act, 1999 at the residential premises of petitioner No.1-Pal Pabla and business premises of M/s Worldwide Forex Pvt. Ltd. and M/s Orane International of petitioner No.1 on 05.09.2014 and during the search of business premises, an amount of Rs.5,00,000/- Can\$ 295, U.S. \$ 219, British Pound 440, Euro 235, UAE Dirhams 205, Malaysian Ringetee 33, Newzealand \$ 50 and Hongkong \$ 30 alongwith documents were recovered. Some incriminating documents alongwith FDR valuing to Rs.1,07,32,861/- were also seized from the said residential premises of petitioner No.1. It is further alleged that above said 15 FDRs were got encashed by accused Pal Pabla, Piara Singh and Smt. Ranjit Kaur on 08.09.2014 and 10.09.2014 by filing applications giving wrong information and false indemnity bonds on stamp papers by concealing the true facts that these FDRs had been seized by the Enforcement Directorate on 05.09.2014 in FIR No.131 dated 13.09.2014, registered under Sections 420, 177, 191, 206, 207 and 120-B IPC. It is also mentioned in the impugned order that challan was initially submitted before learned Additional Chief Judicial Magistrate Nawanshahr who vide order dated 30.04.2015 committed the case to the Court of Session for trial. It is also clear from the impugned order that the complaint as well as challan case are pending before the Court. The record also shows that the

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complainant has launched the prosecution against the accused under Section 45 (1) read with Section 4 of the Prevention of Money Laundering Act 2002 and submitted the complaint to the Court on 04.12.2014 and charges have been framed on 05.11.2014. The provisions of Section 210 Cr.P.c. would show that when investigation is in progress in a police case, only then proceedings should be stayed in a complaint case, but once investigation has been completed, then the provisions of Section 210 Cr.P.C. has no application. It is stated that charge-sheet in the case instituted on police report has already been submitted, therefore, no investigation by the police was in progress in relation to the said offence at the point of time. The Court after discussing the law held that the police has already submitted the final report under Section 173 Cr.P.C. before learned Additional Chief Judicial Magistrate, Nawanshahr on 15.12.2014. Though, the case was committed on 30.04.2015, the complaint was filed on 04.12.2014. At the time of filing the complaint, no investigation was pending before the police. Thus, the provisions of Section 210 Cr.P.C. are not applicable in the present case. The learned trial Court has correctly held that the offences under the complaint and in the FIR case are entirely different and both the cases cannot be clubbed together. From the perusal of the record as well as the impugned order passed by the trial Court, I find that no illegality has been committed by the court while passing the impugned order and the same is correct and as per law. In no way, passing of impugned order amounts to miscarriage of justice.

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From the above, I find that there is no merit in the instant petition.

Dismissed.

02.06.2017
parveen kumar

(INDERJIT SINGH)
JUDGE

Note:	Whether speaking/reasoned	:	Yes
	Whether reportable	:	No