

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

CRL. MISC. No.M-25243 OF 2012
DATE OF DECISION : 10th AUGUST, 2017

Balkar Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

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Present : Mr. Pawan Kumar, Senior Advocate with
 Mr. Vipin Kumar, Advocate for the petitioner.

Ms. Samina Dhir, D.A.G. Punjab.

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A. B. CHAUDHARI, J. (ORAL)

Rule.

Heard forthwith with consent of learned counsel for the parties.

By the impugned order the learned trial judge held that the petitioner being public servant could be prosecuted under the provisions of Prevention of Corruption Act, (in short, PC Act) before the trial Court in a pending trial.

Having heard learned senior counsel for the petitioner and the learned counsel and upon perusal of the record, I find that the petitioner being the Manager of Punjab State Cooperative Agriculture Development Bank Limited. It is a cooperative bank. The question, whether the petitioner is a public servant or not is not a pure question of law but the same is a mixed question of law and fact, to be decided on evidence to be lead by both the parties which can be oral as well as

documentary. The trial Court has decided the question on the basis of the arguments made before it. There is a stay order in the present petition and the trial has been stayed. It is not possible for this Court to allow the trial to be obstructed and therefore, having found that the question involved is a mixed question of law and facts, based on oral as well as documentary evidence the petitioner is prohibited from raising any challenge separately others than in the trial in which the first point for determination would be determined by the trial Court as to whether the petitioner is a public servant or not. The trial Court shall simultaneously decided other points for determination along with point regarding the petitioner's status. In no case, the trial Court shall decide the question regarding "public servant" separately. In other words, the entire trial shall be held and completed along with answer to the question No.1 as stated above.

In the result, the petition is disposed of with direction to the trial Court to deal with the question afresh on evidence without being influenced by the impugned order. The trial be expedited and shall be completed within six months from today.

Interim order staying the proceedings before the trial Court is vacated.

10th AUGUST, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>