

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

**Criminal Misc. No.M-49378 of 2017 (O&M)
Date of Decision: December 21, 2017**

Tilak Raj Sharma

.....PETITIONER(s).

VERSUS

Central Bureau of Investigation

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: None for the petitioner (s).

SURINDER GUPTA, J.

Paper book perused.

The petitioner is challenging the order dated 28.07.2017 passed
by the trial Court, which read as follows:

*Challan/final report u/s 173 Cr.P.C., has been filed by Shri
Manmeet Singh, Inspector, CBI/ACB, Chandigarh.*

*As per report of the Ahlmad, challan/final report has been
checked and found correct as per list of documents of CBI.
It be checked and registered.*

*Accused Tilak Raj is produced before me through video-
conference.*

*File from the Court of Ms. Suman Patlain, Learned JMIC
(Duty), Chandigarh received. The bail bonds on behalf of
accused Ashok Kumar furnished in compliance of order of
Hon'ble High Court, Chandigarh vide CRM-M-24812-2017
(O&M) dated 19.07.2017 before Duty Magistrate, Chandigarh
who passed the order dated 20.07.2017.*

As the challan/final report u/s 173 Cr.P.C. has been presented

today, accused Tilak Raj be produced in person on 31.07.2017 for supplying the copies of challan/final report under 173 Cr.P.C.

Perusal of the order shows that the case was adjourned for supplying the copy of challan/final report to petitioner for 31.07.2017. The plea that Court can not take cognizance against the petitioner for the commission of offences without mandatory sanction under Section 19 of the Prevention of Corruption Act, (for short P.C. Act) was not as issue raised before trial Court or required to be considered while passing order dated 28.07.2017, as such, this order suffers from no legal infirmity.

The petitioner has also challenged order dated 16.12.2017 passed by the trial Court, which read as follows:

An application for intimation to the Hon'ble Court for conducting further investigation in respect of accused Tilak Raj Sharma, is also filed by CBI.

Copy of the application is given to counsel for accused Tilak Raj Sharma who requested adjournment for filing the reply to the application. Heard. Request is allowed.

Case is adjourned to 17.02.2018 for filing reply to the application dated 16.12.2017.

Perusal of both the orders shows that the point of proceeding with the trial without the mandatory sanction under Section 19 of the Act has not been raised or decided by the trial Court in both the above orders. It appears that the application filed by the petitioner for terminating the proceedings and discharging him for want of sanction, has not been decided by the trial Court. The petitioner moved another application intimating the trial Court of further investigation in respect of petitioner, which is pending

for reply for 17.02.2018.

As the learned trial Court has not decided the application filed by the petitioner for his discharge for want of sanction, this petition is not maintainable. This petition is disposed of with liberty to petitioner to file fresh petition, if the need so arise.

(SURINDER GUPTA)
JUDGE

December 21, 2017

Jyoti-II

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***