

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

**CRL. REVISION No.581 OF 2017 (O&M)
DATE OF DECISION : 24 AUGUST, 2017**

State of Punjab

.... Petitioner

Versus

Tota Singh

.... Respondent

CRL. MISC. No.M-5372 OF 2017

Tota Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

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

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Present : Ms Manjari Nehru Kaul, Addl. Advocate General, Punjab.

Mr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate for the respondent.

Mr. Preetinder Singh Ahluwalia, Advocate – Amicus Curiae

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A. B. CHAUDHARI, J. (ORAL)

Both these petitions have been taken up together for hearing since they are directed against the common order.

Heard learned counsel for the rival parties.

It is not disputed that the trial is almost on the verge of completion of trial in the corruption case against respondent in CRR No.581 of 2017 and the petitioner in CRM-M No.5372 of 2017 who was the Cabinet Education Minister in Punjab Government at the relevant time.

Learned counsel for the State as well as Senior Advocate for Sh. Tota Singh Dr. Anmol Rattan Sidhu vehemently argued that there is no bar in granting permission for withdrawal of the prosecution under Section 321 Cr.P.C. at any stage and therefore, the Court ought to have allowed the withdrawal of the prosecution under the PC Act against the respondent-Tota Singh and others.

Heard learned counsel for the appearing parties. They have cited several judgments which I have gone through. The proposition laid down in those judgments cannot be disputed.

I have perused the reasons recorded by the learned trial Judge for rejecting the application filed by the State for withdrawal of the prosecution. I am satisfied with the reasons given by the trial Court in not entertaining the application filed by the State for withdrawal of the prosecution. I quote the following paragraphs from the impugned order of the trial Court with which I fully agree:

“13. In this case the application has been moved by the Public Prosecutor for withdrawal from prosecution suddenly at the very fag end of the case. No doubt as discussed in detail above, application from withdrawal from the prosecution can be moved even before pronouncement of the final judgment, but it is an enabling provision. However, as per the settled dictum of law, the Public Prosecutor has to satisfy the Court, what weighed into his mind before filing this application. Presently, in this case except for addressing the arguments, nothing more is likely to be done by the prosecution for advancement of this case, so the burden was heavy upon the public prosecutor to satisfy this Court for seeking its

indulgence for grant of consent as to what was the public interest, public policy or cause of justice which may tilt the scales of the justice in favour of grant of the consent by this Court at this stage. Despite the lengthy arguments by the learned Public Prosecutor, this Court fails to find any such ground or reason to be convinced prima-facie that the application in hand satisfy any of the golden parameters laid down by the Hon'ble Superior Courts in such like matters. This case pertains to allegations of large scale bungling by the Public Servants sitting on higher pedestal of the hierarchy of executive. Here public has a great faith in their actions and conduct. Thus, if any finger is pointed out towards them and then matter is put under judicial scrutiny and if after almost conclusion of the trial, such application is moved, it smacks of malafide and an attempt to scuttle the due course of judicial process prematurely. In any case, there is nothing to convince this Court to give its consent to culminate the trial abruptly at the fag end as Public Prosecutor failed to show that his decision to move this application has been made by him as per the dictum of judgments of the Hon'ble Superior Courts as discussed above.

14. To conclude, the grounds of application seen in the light of the totality of the facts and circumstances of the case, more or less smacks of extraneous considerations and are nothing but

plagiarism of the Public Prosecutor and may be at the dictum of the State.”

In the result, I find no merit in both these petitions. Accordingly, both the petitions are dismissed.

The trial Court shall complete the trial at the earliest.

24 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>