

In the High Court of Punjab and Haryana at Chandigarh

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(1) Criminal Misc. No.M-26312 of 2016

.....

Date of decision:21.02.2019

Gurmeet Singh

.....Petitioner

v.

Central Bureau of Investigation

.....Respondent

....

(2) Criminal Misc. No.M-30689 of 2016

.....

Bikramjit Singh and others

.....Petitioners

v.

Central Bureau of Investigation

.....Respondent

....

(3) Criminal Misc. No.M-30735 of 2016

.....

Sukhdev Raj Joshi and another

.....Petitioners

v.

Central Bureau of Investigation

.....Respondent

....

(4) Criminal Misc. No.M-30757 of 2016

.....

Nirmal Singh and others

.....Petitioners

v.

Central Bureau of Investigation

.....Respondent

....

(5) Criminal Misc. No.M-30780 of 2016

.....

Cr. Misc. Nos.M-26312 of 2016 etc.
[2]

Sukhdev Raj Joshi and another

.....Petitioners

v.

Central Bureau of Investigation

.....Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. P.S. Ahluwalia, Advocate for the petitioners.

Mr. Sumeet Goel, Advocate for the respondent-CBI.

Mr. R.S. Bains, Advocate for the complainant.

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Inderjit Singh, J.

This order will dispose of the above mentioned five petitions filed under Section 482 Cr.P.C. praying for quashing of FIR No.RC-1(S)/97/SIU-XVIII/CHG dated 30.05.1997 (Annexure-P.1) registered for the offences under Sections 364, 344, 346 and 34 IPC and final report (Annexure-P.2) presented by the investigating agency under Section 173 Cr.P.C. along with all consequential proceedings emanating therefrom in view of the facts and circumstances of the case. It has further been prayed that during the pendency of the present petitions, further proceedings arising out of the FIR before the learned trial Court may be stayed.

Notice of motion was issued in these cases.

Mr. Sumeet Goel, learned Advocate has appeared on behalf of the respondent-CBI and Mr. R.S. Bains, learned Advocate has appeared for the complainant and have gone through the record.

I have heard learned counsel for the parties as well as learned

counsel for the CBI and have gone through the record.

From the record, I find that the FIR in the present case was registered on 30.5.1997 and the report under Section 173 Cr.P.C., as argued, has been presented in the Court in the year 2001.

Learned counsel for the petitioners argued only on one point that the case can be entrusted to the CBI by the High Court under its Constitutional power or it can be entrusted through a notification of the State Government. Therefore, he argued that in the present case admittedly there is no notification for entrusting this case to CBI. He further argued that there is also no High Court order to entrust the case to the CBI. Therefore, he argued that the FIR registered by the CBI in these petitions is liable to be quashed.

On the other hand, learned counsel for the CBI and the complainant argued that earlier the petitioners filed the petition for quashing of the FIR which was dismissed upto Hon'ble Supreme Court. Now after gap of so many years again these petitions have been filed, which are not maintainable.

Learned counsel for the petitioners argued that these petitions are maintainable because earlier petition was filed on another ground and these petitions have been filed on new ground.

After hearing learned counsel for the parties and after going through the record, I find that when first petition was filed for quashing of the FIR and it remained pending for substantial period and has been decided upto the Hon'ble Supreme Court and this FIR was not quashed then by saying that it is on new ground, second petitions are not maintainable. This

ground, which the petitioners now taking was available to them during the pendency of those proceedings. Even if it could be legal point, it can be argued in that earlier petition at that stage. If the contention of the learned counsel for the petitioners is allowed that he can file the second petition on another ground, then after the decision of these petitions, if these are dismissed, then he will file another one on new ground and it will go on, which is not permissible and cannot be allowed. Secondly, I find that it is admitted case of the petitioners that the Court entrusted the inquiry to CBI to look into the missing of six persons of a family and the learned counsel for the respondent has brought to my notice so many orders during the proceedings regarding entrusting the inquiry and then expediting completion of investigation by this Court to the CBI. This Court has passed order dated 2.5.1997 in Cr.W.P. No.455 of 1994, which is as under:-

“That being so, I deem it just and proper in the interest of justice that it is a fit case in which enquiry should be entrusted to the Central Bureau of Investigation to enquire into the allegations made in the petition. I order accordingly and entrust the enquiry to the Central Bureau of Investigation with direction to submit the report after holding the enquiry expeditiously and preferably within a period of three months from the date of receipt of copy of this order and submit the report in the Registry of this Court.”

The order dated 5.9.1997 passed by this Court in Cr.W.P. No.455 of 1994 reads as under:-

“After going through the petition and hearing learned counsel

for the writ petitioner/opposite side, the petition is allowed and the time for submitting the report after completion of the detailed investigation in the matter is extended by six months with effect from the date of the application i.e. 8.8.1997. The office is directed to list this case for hearing after the receipt of the report of C.B.I.”

There are so many other orders passed by this Court where the time was extended from time to time for completion of the investigation. Learned counsel for the petitioners relied upon the law laid down by the Hon'ble Supreme Court in Ms. Mayawati v. Union of India and others, 2012 (3) R.C.R. (Criminal) 622. I have gone through the law laid down in that judgment. That case having distinguished facts will not apply in the present cases. In that case, the Hon'ble Supreme Court was seized of the matter regarding Taj Heritage Corridor matter and during the inquiry of investigation, the CBI also investigated the matter regarding disproportionate assets. The Hon'ble Supreme Court held that the matter was not entrusted by it to the CBI for investigation as disproportionate assets matter has no direct link with the Taj Heritage Corridor matter for which the SC is seized of the matter and monitoring the same. In the present cases in hand, this Court was monitoring the case relating to missing of six persons of a family and the inquiry was specifically entrusted by this Court to CBI and then this Court monitored the investigation and given the time to complete the investigation in the FIR. In no way, it can be held that this Court has not entrusted the CBI to conduct the investigation. Rather, the investigation was conducted directly under the supervision of this Court

which was monitoring the disputed matter regarding missing of six members of a family etc.

Therefore, from the above discussion, I find no merit in these petitions and the same are dismissed.

February 21, 2019.

(Inderjit Singh)
Judge

hsp

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