

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

Date of decision: 01.04.2019

CWP No.8763 of 2019

Mahavir Mittal

...Petitioner

Versus

District & Sessions Judge, Rohtak & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINAPresent: Mr. Mahavir Singh, Advocate,
for the petitioner.**RAJIV NARAIN RAINA , J. (ORAL)**

1. The departmental inquiry is already in progress against the petitioner who is a subordinate court employee in Rohtak Sessions Division facing charge sheet for taking bribe. The statement of the complainant has been recorded and the petitioner has availed remedy of cross-examining him. The defence is no longer a secret. Therefore, the principles in Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. & another, (1999) 3 SCC 679 are of no help to the petitioner at the stage we are at, counsel urging that where the set of allegations in the criminal case and the departmental proceedings is the same, then it would be desirable to keep the domestic proceedings pending so as not to expose the petitioner to reveal his defence.

3. In *Capt. M. Paul Anthony's* case, the Supreme Court has recognized the basic principle that the two proceedings can go on parallel, but with the caveat added in proposition (ii) in paragraph 21 of the judgment reproduced below. The Supreme Court held that no hard and fast rule or

straight jacket formula can be evolved valid for all cases of general application. The Supreme Court indicated the following tests to serve as guidelines in such matters:

“21. xxx xxx xxx

(i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.

(ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.

(iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge sheet.

(iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the Departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.

(v) If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, administration may get rid of him at the earliest.”

4. The type of case covered by *Capt. M. Paul Anthony's* case is usually a complex one, where all sorts of ocular, electronic and documentary evidence etc. is required to be led and, therefore, disclosure of defence in the inquiry proceedings may cause prejudice to the accused in the criminal trial. But in the present case, the petitioner was caught red-handed demanding bribe in office in a raid conducted by the State Vigilance Bureau, Rohtak. He is facing criminal trial in case FIR No.7 dated 23.05.2018 registered under Sections 7, 9 & 13 of the Prevention of Corruption Act, 1988. Thus, I do not think any complicated questions of facts are involved in the case to bring it within the ambit of *Capt. M. Paul Anthony* case.

5. In these circumstances, writ jurisdiction cannot be allowed to be invoked with a prayer that either interim or final mandamus be issued to the respondents not to pass final orders in the domestic proceedings during the pendency of the criminal case. Consequently, I do not find any valid ground is made out warranting intervention by this Court at this stage under Article 226 of the Constitution and would dismiss the petition.

6. However, in case the petitioner is ultimately acquitted of the criminal charge in the trial, he can always return with the judgment.

01.04.2019

tarun/Vimal

**[RAJIV NARAIN RAINA]
JUDGE**

Whether speaking/reasoned: Yes

Whether reportable: Yes/No