

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CRM-M-35229-2015

Date of Decision: 30.10.2019

Harminder Singh Mavi and others

...Petitioners

**Versus**

State of Punjab and others

...Respondent(s)

CRM-M-3411-2016

Surinder Singh and another

...Petitioners

**Versus**

State of Punjab and others

...Respondent(s)

**CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present:** Mr.P.S.Ahluwalia, Advocate for the petitioners in  
CRM-M-35229-2015.  
Mr.S.K.Sandhir, Advocate for the petitioners in  
CRM-M-3411-2016  
Mr.Bhupinder Beniwal, AAG, Punjab.  
Ms.Ramandeep Kaur, Advocate for  
Mr.Sumeet Goel, Advocate for CBI.  
Mr.Deepak Sabharwal, Advocate for respondent No.5 in  
CRM-M-35229-2015

**ANIL KSHETARPAL, J.**

By this order, the aforementioned two petitions filed under  
Section 482 of the Code of Criminal Procedure, seeking to invoke inherent  
powers of this Court, shall stand disposed of.

In these petitions, prayer made is of similar nature. Hence,  
substantive prayer of CRM-M-35229-2015 is extracted as under:-

*“That the instant petition may be allowed and the appropriate  
orders or directions may be issued to Respondent No.3 i.e.*

*Director General of Vigilance, Punjab Police, Chandigarh to handover the inquiry/probe into complaints Annexures P-1 and P-2 made against Respondent No.5 regarding embezzlement of crores of rupees in Government funds, to Central Bureau of Investigation i.e. to Respondent No.4 as the Respondent No.5 being Superintendent Engineer-technical head of the Department of Rural Department and Panchayats has influenced the Vigilance Bureau and as a result Vigilance Bureau is not taking any action against Respondent No.5 and other persons involved in this embezzlement.”*

At the outset, it must be noticed that this is the second petition filed by the petitioners. First petition filed was disposed of by the High Court, directing the Director General of Vigilance, Punjab Police to decide the representation filed by the petitioners. The order dated 22.07.2015 passed in CRM-M-23627-2015 is extracted as under:-

*“The present petition is disposed off with the direction to respondent No.3-Director General of Vigilance, Punjab Police to decide the representation filed by the petitioner within a fifteen days.”*

In these petitions, it was projected that the aforesaid order dated 22.07.2015 extracted above has not been complied with.

Pursuant to notice, reply has been filed and it has been brought to the notice of the Court that the Director Vigilance has conducted an inquiry into the allegations and found no substance therein.

It has come on record that initially an inquiry was held by the departmental officials in the allegations made and no substance was found therein. Thereafter pursuant to the directions issued by the High Court on the representation made to Deputy Chief Minister, an officer in the rank of Superintendent of Police, Vigilance Bureau, was directed to hold inquiry.

The report has been submitted by the Vigilance Bureau. The report is after

associating petitioners.

This Court has heard learned counsel for the parties at length and with their able assistance gone through both the papers books.

Learned counsel for the petitioners has submitted that both the inquiries are similarly worded and hence hogwash. He has further submitted that since there is an embezzlement of crores of rupees, therefore, the Court should exercise its powers under Section 482 Cr.P.C. and direct an inquiry by the independent agency. He has further submitted that the authorities have not even registered an FIR, which is necessary before an inquiry is held. He, hence, submitted that bias of the authorities is writ large.

On the other hand, learned counsel for the respondents have submitted that the petitioners are indulging in witch-hunt. He submitted that both the petitioners are the persons against whom respondent No.5 had initiated actions while working as their superior and it is for this reason, the petitioners are filing repeated petitions.

On consideration of the matter, this Court finds that both these cases are not fit for excising powers under Section 482 Cr.P.C. while directing investigation by an independent agency or CBI. The reasons for arriving at such conclusion are as under:-

- (i) It is well settled that powers, which are available under Section 482 Cr.P.C., have to be exercised sparingly, cautiously and in exceptional situation. The very plenitude of the power requires the Court to exercise it with great care and caution. No doubt, the Constitutional Courts are given wide powers, however, such powers cannot be used widely. A greater responsibility has been put on the Constitutional Courts to use this power only in exceptional cases particularly where the

Court prima facie forms an opinion that it is required to be exercised in an incident, which has national or international ramification or which such an order may be necessary for doing complete justice and enforcing the fundamental rights.

(ii) On the directions of the High Court issued in the previous petition extracted above, the Director of Vigilance, Punjab has got an inquiry conducted and a detailed report has been submitted after associating the petitioners.

Argument of learned counsel that both the inquiries are hogwash does not stand close scrutiny. Allegations of the petitioners are that PAVER TILES have been laid without laying a concrete floor beneath the PAVER TILES. On the other hand, learned counsel for the respondent has drawn attention of the Court to the tender document which requires that such pavers are to be laid on a floor of sand with basecoats of 1..8..16. The relevant extract of tendered document as produced is extracted as under:-

*“Providing and laying 60mm thick factor made cement concrete interlocking paver block of M-35 grade made by block making machine with strong vibratory compaction & of approved size and design/shape laid in ordinary grey colour and pattern over & including 50mm thick compacted bed of coarse sand, filling the joints with fine sand etc., all complete as per directions of Engineer-in-charge.”*

As regard last argument of learned counsel that the inquiry could not be held without registration of FIR also does not have substance, because Constitutional Bench judgment in the case of ***Lalita Kumari Vs. Govt. of Uttar Pradesh and other, (2014) 2 SCC 1*** itself allows that in the case of allegations of corruption, prior inquiry is permissible.

Keeping in view the aforesaid facts, this Court does not find it

appropriate to exercise its powers under Section 482 Cr.P.C. to pass further order as prayed for in these petitions. Accordingly, both these petitions are disposed of. However, petitioners shall not stand debarred to resort to alternative remedy available under law. If such proceedings are initiated, the court of competent jurisdiction would decide such case in accordance with the evidence available on record without being influenced by the observations made by this Court, while disposing of these petitions.

Pending application(s), if any, shall also stand disposed of, in terms thereof.

**30.10.2019**  
**mks**

**(ANIL KSHETARPAL)**  
**JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No