

CWP-18485-2019

169

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

CWP-18485-2019

Date of decision : 10.07.2019

Paramvir

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Aman Bansal, Advocate
for the petitioner.

AMIT RAWAL, J. (ORAL)

Notice of motion.

On asking of the Court, Ms. Shruti Jain Goyal, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondent(s)/State.

The petitioners have invoked the jurisdiction of this Court under Article 226 of the Constitution of India for issuance of a writ in the nature of *certiorari*, setting aside order dated 17.05.2019 (Annexure P-3), 20.05.2019 (Annexure P-4) as well as impugned charge sheet dated 20.06.2019 (Annexure P-5), whereby departmental enquiry, during the pendency of the criminal trial in FIR No.232 dated 10.05.2019 under Section 294, 34 of the Indian Penal Code, registered at Police Station City Fatehabad, has been initiated against the petitioner.

As per averments in petition, petitioner is stated to have recruited as Constable. On 09.05.2019, petitioner along with other

CWP-18485-2019

constables were having dinner at one restaurant, due to some misunderstanding with one Gurtek Singh, such event resulted into lodging of the aforesaid FIR. On the same allegations, the department has also issued charge-sheet and initiated the departmental enquiry.

It was next contended that departmental enquiry has been initiated against the petitioner, though continuation of departmental proceedings during pendency of criminal trial on the same facts would amount to double jeopardy. In case the witnesses are examined in departmental proceedings, then it will affect their rights in defending the criminal proceedings. He relies upon notice of motion order dated 01.03.2013 passed in **CWP No.3516 of 2013** titled as **“Sathir Singh V/s State of Haryana and others”**, whereby departmental proceedings were ordered to be kept in abeyance.

Ms. Shruti Jain Goyal, DAG, Haryana, submitted that there is no bar for initiation of departmental enquiry along with criminal case, which can be initiated and go side by side.

I have heard learned counsel for parties, appraised paper book and of view that apprehension expressed has some force. The date fixed in departmental proceedings is much prior to the date fixed in criminal case. Until and unless criminal proceedings are concluded, the departmental enquiry should not continue as there is perceptible apprehension of disclosing the defence. The Department shall not examine the common/identical witnesses, until and unless, they examined in the criminal proceedings first, as there is perceptible apprehension of disclosing the defence.

It is made clear that in case, the petitioner is found to delaying

CWP-18485-2019

in cross-examination of same set of the witnesses in the criminal proceedings, this order will not come in the way of the Department to examine the said witnesses.

With the aforesaid observations, the present writ petition stands disposed of.

10.07.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**