

CWP-24615-2019 (O&M)

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

**CWP-24615-2019 (O&M)
Date of decision : 06.09.2019**

Mahender Kumar

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. M.D. Khan, 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 petitioner has invoked the jurisdiction of this Court under
Article 226 of the Constitution of India for issuance of a writ in the nature
of *mandamus*, directing the respondents not to proceed the departmental
inquiry during pendency of criminal trial in case FIR No.02, dated
25.04.2019, under Section 7/13 of Prevention of Corruption Act, at Police
Station, State Vigilance Bureau, Faridabad.

Learned counsel for the petitioner submits that in both
departmental and criminal proceedings, most of the witnesses are
common/identical. In case the witnesses are examined in departmental
proceedings, then it will affect his right in defending the criminal
proceedings. In support of his contentions, reliance has been placed upon

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the ratio decidendi culled out by Hon'ble the Supreme Court in **"Capt. M. Paul Anthony V/s Bharat Gold Mines Ltd." 1999 (2) SCT 660.**

Ms. Shruti Jain Goyal, DAG, Haryana, submitted that there is no bar for continuation of departmental enquiry along with criminal case, which can be initiated and go side by side, but did not dispute the fact that few of the witnesses are common/identical in the proceedings.

I have heard learned counsel for parties, appraised paper book and of view that since few of witnesses are common/identical in both the proceedings, the Department shall not examine the common/identical witnesses, until and unless, they are 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 be delaying 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.

06.09.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/ No
Whether Reportable	Yes/ No