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

CWP-8230-2018

Date of decision : 18.07.2019

Krishan

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Dr. S.K. Redhu, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

AMIT RAWAL, J. (ORAL)

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 *certiorari*, quashing order dated 24.05.2017 (Annexure P-2) and charge sheet dated 19.02.2018 (Annexure P-4), vide which, the Superintendent of Police, Rohtak, had initiated the departmental enquiry on having been falsely implicated in a criminal case bearing FIR No.81 dated 22.05.2017 under Section 307 of IPC and Sections 25, 27/54/59 of Arms Act, Police Station at Bawani Khera and further writ of mandamus directing the respondents to keep the departmental proceedings in abeyance till final decision of the criminal case.

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

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proceedings, then it will affect his right in defending the criminal proceedings. In support of his contentions, reliance has been placed upon the ratio decidendi culled out by Hon'ble the Supreme Court in **"Capt. M. Paul Anthony V/s Bharat Gold Mines Ltd." 1992 (2) SCT 660.**

Mr. Hitesh Pandit, Addl. A.G., 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.

This Court, vide order dated 03.04.2018, had already stayed the departmental 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 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 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.

18.07.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

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