

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.28815 of 2019 (O&M)

Date of Decision.04.10.2019

Inspector Subhash Chand

...Petitioner

Vs

State of Haryana and others

...Respondents

Present: Ms. Sonia G. Singh, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

Notice of motion.

On asking of the Court, Mr. Kiran Pal Singh, AAG, Haryana,
who is present in court, accepts notice on behalf of respondents.

Petitioner 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 01.07.2019 (Annexure P-2) and charge-sheet dated 17.08.2019 (Annexure P-3) whereby departmental enquiry has been initiated on the basis of a FIR bearing No.11 dated 01.07.2019 under Section 7 of Prevention of Corruption Act, 1988 at Police Station SVB Karnal, District Karnal.

Learned counsel for 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 their rights in defending the criminal proceedings. In support of his contentions, reliance has been placed upon the ratio decidendi culled out by Hon'ble Supreme Court in **"Capt. M. Paul**

Anthony Vs. Bharat Gold Mines Ltd. 1999 (2) SCT 660.

Learned State counsel 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 petitioner is found to be involved in delaying tactics 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.

(AMIT RAWAL)
JUDGE

October 04, 2019

Pankaj*

Whether speaking/reasoned Yes

Whether reportable No