

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

LPA-329-2019 (O&M)
Date of decision:- 25.02.2020

Charanjit Singh and another
...Appellants

Versus

State of Punjab and others
...Respondents

LPA-692-2019 (O&M)

Inspector Pardeep Singh
...Appellant

Versus

State of Punjab and others
...Respondents

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present:- Mr. Akshay Bhan, Senior Advocate,
with Mr. Amandeep Singh Talwar, Advocate,
for the appellants in LPA-329-2019.

Mr. Anurag Chopra, Advocate,
for the appellant in LPA-692-2019.

Ms. Rameeza Hakeem, Additional Advocate General, Punjab,
with Ms. Diya Sodhi, Assistant Advocate General, Punjab,
for the respondents.

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RAVI SHANKER JHA, C.J. (ORAL)

Heard learned counsel for the parties on the question
of maintainability of the appeals in view of the preliminary
objection raised by the respondent - State of Punjab.

Both the appeals have been filed by the appellants
against the judgement of the learned Single Judge
dated 25.01.2019 dismissing the writ petitions filed by them,
wherein they had prayed for the following reliefs:-

i) Issuance of a writ in the nature of certiorari for quashing of impugned report dated 29.06.2016 (Annexure P-11) and impugned report dated 30.06.2018 (Annexure P-19) being violative of the provisions of the Commission of Inquiry Act, 1952 and having erroneously considered the facts and circumstances of the present case.

ii) Issuance of a writ in the nature of Certiorari for quashing the Action Taken Report dated 24.08.2018 (Annexure P-16) issued by respondents No. 1 and 2 without affording any opportunity of hearing to the petitioner - Inspector Pardeep Singh to rebut the findings/recommendations in the impugned report dated 30.06.2018 submitted by respondent No. 4 as being violative of the principles of natural justice and thus legally untenable.

iii) Issuance of a writ in the nature of Certiorari for quashing the order dated 17.09.2018 (Annexure P-17) passed by respondent No. 5 initiating departmental enquiry against the petitioner - Inspector Pardeep Singh in pursuance to the impugned Action Taken Report dated 24.08.2018 as being grossly illegal, arbitrary and legally unsustainable.

iv) It is further prayed that during the pendency of the present case, further proceedings pursuant to the said inquiry reports and as recommended by the government may kindly be stayed.

v) Issuance of any other appropriate writ, order or directions which this Court may deem fit in the facts and circumstances of the present case.

The learned Single Judge while dismissing the writ petitions has observed that the criminal proceedings initiated against the appellants pursuant to the Action Taken Report dated 24.08.2018 based on the recommendations of the Commission

of Inquiry dated 30.06.2018 shall go on and that the trial Court shall consider the charges against the appellants on the basis of the evidence adduced by the prosecution in the criminal trial without being influenced by any observation made in the report submitted by the Commission of Inquiry.

The appellants being aggrieved by the decision of the learned Single Judge have filed these appeals.

A preliminary objection has been raised by the State of Punjab regarding the maintainability of these appeals on the strength of the decision of the Supreme Court in the case of *Ram Kishan Fauji Vs State of Haryana and others* (2017) 5 SCC 533. It is submitted that challenge to the report of the Inquiry Commission and the Action Taken Report based thereon all relate to the exercise of criminal jurisdiction by the learned Single Judge and in such circumstances, the appeals are not maintainable.

Learned senior counsel appearing for the appellants submits that the appellants have challenged the report of the Commission of Inquiry on the ground that its constitution is not in accordance with the provisions of Sections 7, 8(B) and 8(C) of the Commission of Inquiry Act, 1952. He further submits that the appellants have also challenged the recommendations made by the Commission of Inquiry. He submits that the appellants have assailed the same on the ground that the recommendations in the report affect their reputation and are, therefore, in violation of Article 21 of the Constitution of India. He further submits that in such circumstances, as the grounds of challenge to the report of the Inquiry Commission are purely relating to the civil jurisdiction of the Court and not the criminal jurisdiction, therefore, the appeals are maintainable.

Learned Additional Advocate General appearing for the State of Punjab submits that a Letters Patent Appeal is not maintainable in view of the decision of the Supreme Court in the case of *Ram Kishan Fauji* (supra). It is submitted that in the aforesaid decision, the Supreme Court was dealing with a challenge to the report of the Lokayukta on the basis of which criminal proceedings were initiated against the appellant and the Supreme Court in that case treated the challenge to the report of the Lokayukta as a power exercised by the Court in its criminal jurisdiction and accordingly held that a Letters Patent Appeal against the order of the learned Single Judge exercising its criminal jurisdiction was not maintainable under clause X of the Letters Patent. Learned Additional Advocate General, Punjab taking this Court through the relevant portions of the judgement in the case of *Ram Kishan Fauji* (supra) submits that the appeals be dismissed as not maintainable.

We have heard learned counsel for the parties at length.

In the instant case, from a perusal of the prayers made by the appellants, the averments made in the petitions and the fact that admittedly the report of the Commission of Inquiry has been challenged on the ground of its constitution and the recommendations made, it is apparent that the challenge to the report of the Inquiry Commission is intricately and inextricably interwoven and linked with the Action Taken Report and the consequent launching of criminal prosecution of the appellants. In such circumstances, the challenge to the report of the Commission of Inquiry falls within the gamut of inception as well as consequences of the exercise of criminal jurisdiction of this Court as held by the Supreme Court in the case of *Ram Kishan Fauji* (supra). The Supreme Court in

paragraphs 45, 56, 61 and 62 has held that challenge to the report of the Lokayukta in that case was part and gamut of inception and consequences of the exercise of criminal jurisdiction and if any orders in respect of the report are passed, it would have natural consequences on the criminal proceedings. The aforesaid law laid down by the Supreme Court squarely applies to the facts of the present case. In the circumstances, as we are of the considered opinion that the order passed by the learned Single Judge in the peculiar facts and circumstances of the present case relates to the exercise of criminal jurisdiction, the appeals filed by the appellants are not maintainable in view of the law laid down by the Supreme Court in the case of *Ram Kishan Fauji* (supra).

The appeals are accordingly dismissed as not maintainable.

It is made clear that this Court has not expressed any opinion on the merits of the case and the appellants would be at liberty to take up all the issues before the competent forum.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

25.02.2020

Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No