

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

Sr. No.201

CWP-2758-2021

Date of Decision: 22.03.2021

BALWANT SINGH

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr. Parvinder Singh, Advocate,
for the petitioner.

Mr. Navdeep Chhabra,
Deputy Advocate General, Punjab.

Mr. R. Kartikeya, Advocate,
for respondent No.2.

Mr. G.P.S. Bal, Advocate,
for private respondent No.6.

RITU BAHRI, J.

This writ petition has been filed by the petitioner for quashing the order dated 15.01.2021 (Annexure P-4) passed by Punjab State Human Rights Commission, as the Commission has no jurisdiction for transferring an enquiry of FIR outside District S.B.S. Nagar, as in the present case FIR bearing No.121 dated 19.12.2020 has been registered under Section 406 IPC at Police Station Balachaur, District S.B.S. Nagar and the anticipatory bail filed by the accused-respondent No.6 herein, before learned Additional Sessions Judge, S.B.S. Nagar, had been dismissed by the said Court vide order dated 14.01.2021 (Annexure P-3).

Heard learned counsel for the parties.

The petitioner is a complainant in FIR No.121 dated 19.12.2020, under Section 406 of Indian Penal Code. He is seeking quashing of the order dated 15.01.2021 (Annexure P-4), passed by the Punjab State Human Rights Commission. In application dated 10.12.2020 (Annexure P-5), respondent No.6, Tara Singh, is seeking transfer of the investigation in an enquiry done in embezzlement of Rs.38,31,880/-, from District S.B.S. Nagar to Hoshiarpur.

After filing of this application dated 10.12.2020 (Annexure P-5), the Punjab State Human Rights Commission, vide order dated 15.01.2021 (Annexure P-4), issued notice to the Senior Superintendent of Police, S.B.S. Nagar and Senior Superintendent of Police, Hoshiarpur, through e-mail and fax, for compliance.

The grievance of the petitioner is that the bail application of respondent No.6 had been dismissed on 14.01.2021 by the Court of Additional Sessions Judge, S.B.S. Nagar (Annexure P-3). Immediately thereafter, the Human Rights Commission while entertaining the complaint dated 10.12.2020 (Annexure P-5), had stayed the operation of that order on 15.01.2021 (Annexure P-4), which has been passed beyond the jurisdiction. Learned counsel for the petitioner has referred to a Division Bench Judgment passed by this Court in '*Jatt Ram Vs. Punjab State Human Rights Commission*' **2005 (3) RCR (Criminal) 716**, whereby the Hon'ble Division Bench after examining the Human Rights Act, has specifically held that the commission has no jurisdiction to initiate parallel proceedings or order a parallel investigation as well as pass any interim order, with

respect to investigation which is pending in FIR.

This Court after going through the judgment of Jatt Ram's case (supra), has referred to the observations made by the Coordinate Bench in paragraphs No.68 and 81, which are reproduced hereunder:

“68. We respectfully agree with the conclusions arrived at in Rameshwar Dayal's case, Kundan Singh's case, Sham Lal's case, and Sucha Singh Langah's case (supra) and hold that even though the Commission has all the powers of a Civil Court while enquiring into the complaints under the Act but the aforesaid powers are only such powers which are enjoyed by a Civil Court trying a suit. There are no plenary powers nor any inherent powers enjoyed by the Commission which are otherwise available to the Civil Court. It must, therefore, follow that the Commission does not have any power of issuing the interim or ad interim orders while enquiring into the complaints under the Act.

81. The Supreme Court of India in a large number of judgments has laid down that even the High Court should not interfere under Section 482 of the Criminal Procedure Code to thwart the investigation or hamper the same in any manner. It has been held that right of investigation is a statutory right of the investigating agency. It is, thus, clear that when even this Court should be slow to interfere in proceedings under Section 482 of the Criminal Procedure Code for directing the police not to file challan in the Court in exercise of its inherent power, then obviously State Commission has no jurisdiction to issue the aforesaid directions, more so when it has no inherent powers at all. Moreover, we have already noticed above, that the State Commission

does not have any powers to pass any interim orders. We also find that the entertainment of the complaint for reinvestigation of the matter in FIR duly recorded by the police is not within the scope of the powers of the State Commission.”

The Division Bench has held that even though the Commission has all the powers of Civil Court while enquiring into the complaints under the Act, but the aforesaid powers are only such powers which are enjoyed by a civil Court trying a suit. **They do not enjoy any inherent powers to issue interim and ad interim orders while enquiring into the complaints.**

Applying the ratio of above-said judgment to the facts of the present case, the Commission while passing the order (Annexure P-4) on 15.01.2021, has gone beyond its jurisdiction in staying the operation of the impugned order. The impugned order in FIR No.121 dated 19.12.2020 was passed on 14.01.2021 (Annexure P-3), thereby rejecting the bail application of respondent No.6 and the same is liable to be modified.

Accordingly, this writ petition is being allowed and the order dated 15.01.2021 (Annexure P-4) is being set aside to the extent that operation of the order is stayed. This order is modified to the above extent.

The question whether the investigation in the FIR or the complaint only can be considered by the Punjab State Human Rights Commission, shall be looked into by the Commission in view of the directions of the judgment of Hon'ble Division Bench in the judgment of Jatt Ram's case (supra).

It is being clarified that the orders passed by the Commission (Annexure P-4) will only be taken into account with respect to the complaint (Annexure P-5) and shall have no bearing on the investigation in FIR.

(RITU BAHRI)
JUDGE

(ARCHANA PURI)
JUDGE

22.03.2021

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No