

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

CWP No.23220 of 2021(O&M)

Reserved on 21.07.2022

Date of Decision-18.08.2022

Santosh Kumari

... Petitioner

Versus

The State of Punjab and others

... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. B.S. Sidhu, Sr. Advocate and
Mr. R.K. Handa, Advocate with
Mr. Dharambir, Advocate,
Mr. Basant Singh, Advocate and
Mr. Gauri Nanda, Advocate
for the petitioner.

Dr. Anmol Rattan Sidhu, Advocate General,
Punjab with Mr. H.S. Grewal, Addl. A.G., Punjab,
Mr. C.L. Pawar, Sr. DAG, Punjab and
Mr. Pratham Sethi, Advocate.

Mr. Rajeev Anand, Advocate
for respondent No.6-CBI.

RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this writ petition for the
issuance of an appropriate writ especially in the nature of
mandamus, directing the respondents-State Authorities to get
the further investigation conducted in case bearing FIR

No.101 dated 22.06.2019 under Sections 302, 120-B, 34 IPC and Section 52-A of the Prison Act, Police Station Nabha by Central Bureau of Investigation or any other independent agency.

[2]. The grievance of the petitioner is that the State police has not investigated the conspiracy angle in the case relating to custodial death of the husband of the petitioner. The husband of the petitioner was brutally murdered in judicial custody when he was lodged in New District Jail, Nabha in case bearing FIR No.33 dated 07.03.2011, under Sections 283, 353, 186, 427, 323, 436, 148, 149 IPC and Section 3 of the Prevention to Damage to Public Property Act, 1984, Police Station City Moga and other some false FIRs. The husband of the petitioner was brutally tortured by higher police officers under a political motivated conspiracy. The instances of the brutality and conspiracy involving higher police officers were elaborately mentioned by the deceased in a diary note/handbook during his judicial custody in New District Jail, Nabha and the said diary note came into possession of the petitioner after the death of her husband.

[3]. Learned Senior Counsel for the petitioner contended that the husband of the petitioner was falsely involved in number of FIRs including the sacrilege cases, registered at Police Station Bajakhana and Kotkapura, District

Faridkot. The husband of the petitioner was arrested in view of his alleged confessional statement. After torture and beatings, he was arrested in FIR No.33 dated 07.03.2011 from Palampur and the petitioner came to know about his arrest from media report on 11.06.2018. Earlier to that, Punjab police did not show availability of the husband of the petitioner despite the fact that he was illegally abducted by the Special Investigation Team from Palampur on 07.06.2018. The police misbehaved with the family of the petitioner including the women folk and deceased Mohinder Pal @ Bittu was forced to confess as per wishes of higher police officers, who had some personal grudges against the husband of the petitioner under some political clouts. Learned Senior Counsel further submitted that on 22.06.2019, family members of Mohinder Pal @ Bittu met him in the jail in the morning and took his dirty clothes etc for washing. Later on, they came to know that Mohinder Pal @ Bittu was brutally murdered by the jail inmates namely Maninder Singh and Gursewak Singh under a conspiracy of police officers and politicians etc. FIR No.101 dated 22.06.2019 was registered under Sections 302, 34, 120-B IPC and Section 52-A of the Prison Act at Police Station Sadar Nabha against the aforesaid assailants namely Maninder Singh and Gursewak Singh. Later on, body of Mohinder Pal @ Bittu was handed over to his family members for cremation and the same was cremated on 25.06.2019.

Dirty clothes of Mohinder Pal @ Bittu were given to his family members on 22.06.2019. A note book/diary note/dying declaration was recovered from the clothes of the deceased and petitioner came to know about the brutality and torture with which her husband was treated in the jail by the police officers including the higher police officers. After receiving the diary note, Arminster Pal immediately sent an application in the context of diary note to the Deputy Commissioner-cum-District Magistrate, Faridkot by specifically naming the higher police officers on 23.06.2019. On 24.06.2019, the Deputy Commissioner-cum-District Magistrate, Faridkot wrote a letter to the Additional Chief Secretary, Department of Home Affairs and Justice, Punjab for taking necessary action. The said letter was also sent to the Principal Secretary to Government of Punjab, Department of Jails, Principal Secretary to Chief Minister, Punjab and Director General of Police, Punjab. Son of the petitioner specifically named the higher police officers in the application against whom the allegations were found in the diary note. As many as 12 names were disclosed against whom allegations were made by late Mohinder Pal @ Bittu in the diary note.

[4]. Learned Senior Counsel has extracted the relevant references from the diary note, which on translation read as under:-

"xxxxxxxxxx Sardar Ji was the officer, who said "Bittu do you know me". I told that "I cannot recognize, you tell me." He said, "I am Inspector Dalvir Singh", who earlier was SHO Baja Khana when death of Gurdev Singh occurred, you had put up Dharna and started uttering wrong words. Harpreet ASI and Dalvir Singh told that you are being taken in case of Sri Guru Granth Sahib, if you confess then it will be good, otherwise on arrival whatever will happen to you, that will be before you".

"At about 6 in the evening we reached Jagraon CIA on 7.6.18 and on reaching there, they directly took me to the office, where DSP Sulakhan Singh and SP Sohal Sahib were sitting already. SP Sohal abused me very much and asked me to admit that I have lifted Sri Guru Granth Sahib, otherwise no one can take you alive from here".

"After 10 minutes police officers were called inside and on their coming Sulakhan Singh DSP asked me to remove my clothes. I removed my pant and shirt upon which he asked me to remove underwear and banyan and I was made totally naked. Then the one official made me to sit down and caught my hair and one official put knee on my back and two officers started pulling my legs apart and extended its breadth and I was feeling much pain. DSP Sulakhan dealt Dang on my thighs and sometimes SP Sohal dealt Dang on feet and said "you fucker of sister" have more picket & challenge the Police. And same way sometimes would leave and after some time, started giving beatings, and then sometimes said make this fully naked walk outside and it had become difficult for me to walk, and if I didn't walk, in

open, these officers would beat me with chappal and this continued to happen with me till 11 in the night. Thereafter, after giving pain killers to me they asked me to sleep and asked me to make up my mind to confess the commission of the offence, though it may take many days"

"At about 10 in the morning of 8.6.18 then DSP and SP, Dalvir Singh. Three officers called me inside and again started giving me beatings in the same condition till noon and was subjected to electricity current on my private parts and ears and said to me that we will arrange your meeting with DIG Sahib, you tell him and we will not register FIR against you, upon which I said 'yes'"

"After making me read the statement, SP Sohal and DSP Sulakhan Singh stated that, if you have not lifted Sri Guru Granth Sahib, then name those persons who were residing with you and were ready to have fight with Dadu, but I kept silent and stated there's nothing of that sort and they again started giving me beatings. Dalvir Singh Inspector subjected me to electricity current, which I could not bear and I gave out the names of two Premis of Sukhjinder Singh Sunny and Neela. Thereafter, I being fully naked was made to walk in the courtyard of CIA Staff and stated wherever he takes a stop, beat him with Chappal. I wasn't able to walk, so the constables kept beating me with Chappals".

"In the meantime, Harpreet ASI came and sat by side and started talking to each other. Jagdish Lal said that nothing will come out of this matter, as happened earlier. The persons are already within my radar (surveillance).

We have not received a green signal from high ups. ASI Harpreet Singh nodded and agreed with him and while talking both went outside the room".

"Then, they started beating my head and legs with intense force and flesh of my head had also swollen. Dalvir Singh called one Thanedar and asked to bring petrol and syringe, he brought the same and he was long heighted and bulky Sardar. Dalvir asked me to remove my clothes and started to inject syringe filled with petrol, in my front and back private parts due to which I started writhing and also giving blows with chappal. I begged pardon and said that now I will not resist and they stopped giving me beatings. And I was made to put on my clothes and after some time, Sardar Ji Thanesar came and he started beating me and said that you have caused the sacrilege of our supreme, I will beat you to death, may any sentence be awarded to me, I do not care. He was in extreme anger and brought a filled bottle of petrol from outside and said that you will be burnt alive like 'Pule Nihang'. He poured the entire petrol on me and I started raising shrieks and said Thanedar started looking for a match stick. Upon hearing my shrieks, 2-3 officers came from outside and they stopped him by catching hold and then thereafter I was given bath."

"SP Sohal asked me to remove all clothes and I removed. My condition was already so worse. And officers were called and my hands were tied; my legs were widened and severe current was given, my teeth pierced into my tongue and my condition was made worse. DIG instructed the officers that I should be sent

out naked and while my hands were tied, I was made to take rounds and then again left me in the room. Thereafter SSP Satinder Singh Khanna had also came, he took me alone in a room and said, Bittu, started conversing with me and saying you do not swear falsely, so swear on the name of your children and tell if you have really done this, or you are admitting due to the fear of being beaten. Upon this I said that, I swear on the names of all my three children that I have complete faith in Guru Granth Sahib and I cannot even think about this, I have not done this act. Upon hearing this, he stood up and went away from me".

"Thereafter, called me inside and DIG and SP started saying that his condition be made such, and nothing is to be asked from him and he be beaten to such an extent that he would himself tell. Then, current was given to his private parts and in addition of Chappals, Inspector Lakhvir Singh gave Dang blows on my legs, it caused wounds on my legs and due to unbearable pain, I stated that I had thrown remaining Granth Sahib in the Canal. All officers started laughing and said still he's lying, either you have it with you or it is thrown somewhere else. He be made to sit outside and I was made to sit in the room."

"One day, DIG brought 90 years old aged Inspector along with him, all officers were sent out of the room and said he is my Ustaad, tell the complete truth to him. I was suffering from high fever that I was not even able to sit. That old man mentally tortured me for six hours and said that this FIR has been registered against you, it will also be registered against your daughter and rest of your

family members would be killed by hardcore fanatics. I was extremely tortured on only thing that where Guru Granth Sahib has been thrown, I was not able to understand what to do and how to save my life from them. Whatever their planning was, it wasn't understandable to me. I said that I had cremated. Old man left and again I was given beatings".

"in the morning at 5 they took me to that place. They got the place cleared from sewerman; while standing there DIG and other officers started hurling abuses, asking where? Here? and DIG and Sohal SP instructed that he be got through this sewer dirt passage and I was handcuffed, one constable was dragging me and my photographs were taken. Upon passing through, my condition got worsened".

"I was made to meet DIG on 18.6.18, DIG asked me if you'll make the confession, then any more FIRs would not be registered against you in Punjab. SP Sohal said, if you don't confess or resile from your statement or approach the High Court, then there are 100 FIRs, and you will be kept on remand for six months in Police Stations. I told that I will make confession. Then DSP Sulakhan Singh gave me paper and pen and got written the application addressed to Superintendent, in which it was written that I want to confess my offence and that I may kindly be sent to the Court. I was made to understand that when you will be left in jail, then you have to give this application to the Superintendent. And said by Sulakhan Singh DSP and Harpreet Singh ASI that DIG has become brother of Jail Minister Randhawa Sahib, and in case you'll cooperate, you will be shifted to

Dharamshala jail and if you commit any mistake, then you will be sent to Nabha High Security Jail. DIG is so influential because of Randhawa Sahib, that you will go to High Security jail, where bigwigs terrorists are lodged, who will kill you. Think about it yourself that if a Sub Inspector in CIA Staff can pour petrol upon you, then what will be your condition inside the jail. DSP Sulakhan got written two statements as per his own will regarding Dewan of Majhi (discourse) and about to kill Dadu and obtained signatures on three blank papers and said that in case you resile from any of these, the sign would not be less than death of your family."

"On 19th date, when our remand ended, even being there in local Moga, we were produced through V.C. at 12 noon. After we were produced, the orders for us were passed for jail, but again we were brought to CIA Staff Moga. V.C. was held from Mehna Police Station and Dalvir Singh Inspector called me and instructed that stick to your statement as it is; I am to get a DSP Star and if you change your version before the CBI or Court, then you will see your condition what will happen, you have seen the hands of police."

"When we reached, vehicles stopped, I was asked to keep sitting in the vehicle and after some time SSP and SPD of Moga came. SSP Sahib asked the other officers to get off the vehicle, in which I was sitting and himself sat with me and said now, you think yourself that there is none else except the police to save you. Your family is in your custody. Security has been deployed outside your house. If you commit any mistake, then we will get your family killed from hardcore fanatics, and in case you

make the confession rightly then we will protect your family and your sentence will also be reduced xxxxxxxxxxxx."

[5]. Learned Senior Counsel further submitted that Mohinder Pal @ Bittu got bail in almost all the cases. In some of the cases, he was declared innocent. In the last, he applied for bail in FIR No.89 dated 13.06.2018 under Section 295-A IPC, Police Station City Kotkapura, which was registered on the basis of his alleged confession. After giving him beatings, torturing and harassing him to a greater extent, the aforesaid bail application came up for hearing on 31.05.2019 and the same was adjourned to 16.07.2019. In the meanwhile, Mohinder Pal @ Bittu was brutally murdered on 22.06.2019 under a deep rooted conspiracy at the instance of higher police officers as they were comprehensive that after coming out of jail, Mohinder Pal @ Bittu (since deceased) would air his grievance and atrocities meted to him would come in public domain. The police officers were aware that Mohinder Pal @ Bittu had already been given clean chit by CBI. It has been mentioned in the diary note that he was being given threats in the jail premises by the jail officers even in respect of filing bail applications. CBI had already filed closure report in FIR No.63 dated 02.06.2015 under Sections 295-A, 380 IPC, Police Station Bajakhana, District Faridkot, FIR No.117 dated 25.09.2015 under Section 295-A IPC, Police Station

Bajakhana, District Faridkot and FIR No.128 dated 12.10.2015 under Sections 295-A, 120-B IPC, Police Station Bajakhana, District Faridkot. CBI could not collect incriminating material against Mohinder Pal @ Bittu and others and submitted disclosure report on 04.07.2019.

[6]. It will not be out of context to mention here that in sacrilege issues arising out of different FIRs, the State Government withdrew the cases from CBI and constituted Special Investigation Teams in different FIRs. In some of the cases, Special Investigation Teams have filed the challan in the Court and the cases are fixed at the stage of charges. In some of the cases, Special Investigation Teams are still investigating the offences.

[7]. The grievance of the petitioner is that despite the letter along with diary note addressed to the authorities by her son, no action has been taken till date. Police has filed an incomplete challan (report under Section 173 Cr.P.C) against Maninder Singh @ Jumma, Gursewak Singh @ Boot, Jaspreet Singh @ Nihala Baba, Lakhvir Singh @ Lakha Baba @ Deep. Harpreet Singh @ Bania @ Preet has been kept in column No.2 of the challan. The conspiracy part as alleged by the deceased in his diary note has not been investigated at all. The charges have already been framed against the

aforesaid accused and even two of the prosecution witnesses have been examined-in-chief.

[8]. By filing the present petition, the petitioner has prayed for further investigation in terms of Section 173(8) Cr.P.C and also to hand over the investigation to CBI.

[9]. Learned Senior Counsel for the petitioner further submitted that even after filing of the challan, further investigation can be handed over to independent agency like CBI when the allegations are raised against high ranking police officers. Learned Senior Counsel referred to **State of Rajasthan Vs. Shambhoogiri, 2004(4) RCR (Criminal) 577, Rubabbuddin Sheikh Vs. State of Gujarat and others, 2010(1) RCR (Criminal) 738, State of West Bengal and others Vs. The Committee for Protection of Demorcratic Rights West Bengals and others, 2010(2) RCR (Criminal) 141, R.S. Sodhi, Advocate Vs. State of U.P and others, 1994 Supp(1) Supreme Court Cases 143, Narmada Bai Vs. State of Gujarat and others, (2011) 5 Supreme Court Cases 79, Kashmeri Devi Vs. Delhi Administration and another, 1988 (Supp) Supreme Court Cases, 482, Gudalure M.J. Cherian and others Vs. Union of India and others, (1992) 1 Supreme Court Cases 397 and J. Prabhavathiamma Vs. State of Kerala, 2008(1) RCR (Criminal) 778** in the aforesaid context.

[10]. Learned Senior Counsel further submitted that the powers of constitutional Courts are not scattered with the stage of the trial. Even after filing of the challan, the transfer of investigation can be ordered including further investigation or *de novo* investigation by some other Investigating Agency in a given case. The commencement of the trial and examination of some witnesses cannot be an absolute bar or impediment for exercising such constitutional powers. Such powers are meant only to ensure fair and just investigation by the Investigating Agencies. Such powers can be exercised in order to instill faith in the victim and public at large in Investigating Agency. The commencement of the trial after examination of some of the witnesses is not a bar to such transfer of investigation by the constitutional Courts. Learned Senior Counsel referred to **Dharam Pal Vs. State of Haryana and others, (2016) 4 Supreme Court Cases 160** in this context.

[11]. As per stand taken by respondents No.1 to 4, the case has been investigated thoroughly and challan has already been submitted before the competent Court on 16.09.2019. Charges have been framed. Five prosecution witnesses have been examined. Two of the prosecution witnesses have been examined-in-chief and their cross-examinations have been deferred. Two prosecution witnesses

have been given up as unnecessary. On 24.06.2019, a representation along with the diary note of Mohinder Pal @ Bittu was received in the office of District Magistrate, Faridkot and the same was sent to Additional Chief Secretary, Home Affairs and Justice vide letter dated 24.06.2019. The copies of the same were also sent to Principal Secretary, Jail Department, Government of Punjab, Principal Secretary to Chief Minister and the Director General of Police, Punjab. D.G.P, Punjab forwarded the said letter to Director, Bureau of Investigation, who further sent the same to the then DIG, Ludhiana to inquire into the matter vide letter No.1973/CC-4 dated 15.07.2019.

[12]. It appears that the letter was addressed to Sh. R.S. Khatra, IPS against whom the allegations have been made by the deceased in the diary note. Respondents have also submitted that Sh. R.S. Khatra, IPS was transferred and I.G.P rank officer was posted as I.G.P, Ludhiana Range, Ludhiana in his place. Director, Bureau of Investigation again sent a reminder vide letter No.207-CC4 dated 22.01.2021 in this context for calling a status report from I.G.P, Ludhiana Range, Ludhiana. I.G.P, Ludhiana Range wrote a letter to Sh. R.S. Khatra, IPS who was posted as DIG, Jalandhar Range at that time. Since the matter was investigated by the Special Investigation Team headed by Sh. R.S. Khatra, IPS when he

was DIG, Ludhiana Range having additional charge of DIG, Counter Intelligence, Punjab, therefore, the request was made to him to submit details of investigation directly to Director, Bureau of Investigation.

[13]. During the interregnum, an order was passed by the High Court on 04.01.2021 in CRM.M No.19785 of 2020 titled Sukhjinder Singh @ Sunny Vs. State of Punjab and another to change the head of SIT in respect of investigation of FIRs, in which Mohinder Pal @ Bittu was involved as an accused. The relevant extract of the observations as contained in para No.68 (iv) reads as under:-

"The SIT constituted on 22.04.2020, shall now be presided over/headed by an officer other than Sh. R.S. Khatra IPS, in terms of what has been observed in paragraph 65 hereinabove."

Para No.65 of the judgment is also required to be reproduced hereasunder:-

"65. Next coming to the allegation of mala fides on account of the alleged prejudice in the mind of the Chairman of the SIT constituted on 22.04.2020, as is contended by the petitioner in his petition.

I would find no ground to actually entertain that contention, with the officer himself (Sh. Ranbir Singh Khatra) not having been impleaded as a respondent in the present petition to enable him to even file any reply with regard to the allegation made, and consequently simply because that allegation has been made, the

investigation conducted by the SIT between 22.04.2020 and 06.07.2020 (including the report under Section 173 of the Cr.P.C. as was submitted to the court at Faridkot), or even the investigation thereafter continuing in respect of which a supplementary report is to be submitted under the provisions of sub-section (8) of Section 173 (as stated in the report submitted on 06.07.2020 itself), would not be ordered to be discarded by this court.

However, in view of what has been contended in the petition, this court would be inclined to direct that upon the CBI handing over the case diaries and files and all material evidence gathered by it, to the Punjab Police (as would be directed at the end of the judgment), the SIT be ordered to be headed by a different officer so as to ensure that no element of prejudice, whatsoever, remains in the mind of the petitioner, though of course with it to be reiterated by this court that the petitioner otherwise cannot chose an investigating agency of his own choice and further, with this court to observe that directing such change of the head of the SIT, would not in any manner reflect on the conduct of the officer already heading the SIT, i.e. the aforesaid Sh. Ranbir Singh Khatra, IPS.”

[14]. Thereafter, Director, Bureau of Investigation reconstituted the SIT and Sh. Surinderpal Singh Parmar, IPS, Inspector General of Police, Border Range, Amritsar was appointed as Chairman to investigate FIR No.63/2015, FIR No.117/2015 and FIR No.128/2015 registered at Police Station Bajakhana, District Faridkot. The head of SIT namely Sh. Surinderpal Singh Parmar wrote a letter dated 11.10.2021

to Director, Bureau of Investigation, Punjab that the matter relating to representation of Mohinder Pal @ Bittu (since deceased) needs to be entrusted to some other authority in the interest of justice.

[15]. Perusal of the aforesaid letter dated 11.10.2021 would show that Sh. Surinderpal Singh Parmar, IPS/Head of SIT has submitted that all the previous documents relating to SIT were with Sh. R.S. Khatra, IPS, the then DIG, Ludhiana Range, Ludhiana. After his superannuation, the documents have been examined and it has been found that letter dated 15.07.2019 issued by the Director, Bureau of Investigation to DIG, Ludhiana Range has not been disposed of till date. The officer has narrated that no one should be made a judge in his own cause or the rule against bias. No one shall be judge in his own cause, therefore, the matter needs to be entrusted to some other authority for inquiry. Since the allegations have been made against the then Chairman and members of the SIT dealing with the sacrilege cases, therefore, it would be in the interest of justice to entrust the inquiry/investigation to some other authority. Complaint along with memo received from the Deputy Commissioner-cum-District Magistrate, Faridkot was appended in original for further necessary action.

[16]. Thereafter, on 26.11.2021, Director, Bureau of Investigation entrusted the inquiry/investigation of complaint dated 24.06.2019 made by the son of the petitioner to Sh. Mukhwinder Singh Chinna, IPS, the then Inspector General of Police, Patiala Range, Patiala. Thereafter, Sh. Mukhwinder Singh Chinna, IPS, IGP, Patiala Range, Patiala constituted a Special Investigation Team vide letter dated 01.12.2021, comprising of Sh. Kesar Singh, PPS, SP(PBI), Patiala, Sh. Rajesh Chibbar, PPS, DSP, Nabha, Patiala and LR/SI Mohan Singh 2157/PTI, SHO/Kotwali, Nabha, Patiala. Director, Bureau of Investigation also wrote a letter to IGP, Ludhiana Range, Ludhiana to ensure compliance of order dated 20.12.2021 passed by the High Court in CWP No.23220 of 2021 titled Santosh Kumari Vs. State of Punjab and others.

[17]. Reply further reveals that efforts have been made to join the complainant and the present petitioner being son and widow of the deceased for recording their statements. Complainant did not appear before the SIT despite an intimation sent through SHO, Police Station City Kotkapura on 06.12.2021. Another intimation/parwana dated 11.12.2021 was sent and DDR No.29 dated 11.12.2021 was also recorded when IGP Sh. M.S. Chinna himself went to the house of the petitioner on 11.12.2021 for recording statements of the complainant and the petitioner. SIT made

more efforts to record statements of the complainant and the petitioner.

[18]. On 20.12.2021, the High Court directed the police of Patiala Range not to summon the petitioner in any manner relating to murder of Mohinder Pal @ Bittu in judicial custody.

[19]. Perusal of the stand taken by respondents No.1 to 4 would show that till date, SIT could not record the statements of the petitioner and her son.

[20]. Evidently, the composition of new SIT is of PPS Officers and one Sub Inspector who are in any case lower in ranking than the persons against whom the allegations have been made in the diary note. In sacrilege cases, the investigation has been conducted by different SITs and investigation of SIT headed by Sh. Surinderpal Singh Parmar, IPS is still pending.

[21]. Apparently, SIT has not investigated the allegations arising out of diary note so far though SIT headed by Sh. Kesar Singh, PPS is in place. In sacrilege cases, the investigation was taken from CBI and was entrusted to SIT. Thereafter, different SITs were constituted. The issue of investigation by CBI transferred to SIT, was challenged in the High Court and the High Court has endorsed that the matter

can be investigated by SIT as against the closure report given by the CBI.

[22]. In the present case, CBI has filed its reply to the effect that keeping in view the sensitivity of the matter in view of allegations against the politicians and higher police officers, further investigation of the case bearing FIR No.101 dated 22.06.2019 under Sections 302, 120-B, 34 IPC and Section 52-A of the Prison Act can be entrusted to CBI and CBI shall investigate the case in a professional manner.

[23]. Learned counsel for respondents No.1 to 4 further submitted that the disputed questions of fact are involved and genuineness of alleged diary note has not been established on record as the same is not an original copy. No complaint was ever made by any person against the alleged occurrence of 07.06.2018 and 11.06.2018 when Mohinder Pal @ Bittu was taken away forcibly and illegally from village Chachia on 07.06.2018 and on 11.06.2018 when the complainant came to know through news channel that FIR No.33 dated 07.03.2011 has been registered in respect of allegations made in the year 2011 and Mohinder Pal @ Bittu was produced in the Court at Moga.

[24]. Evidently, SIT headed by Sh. Kesar Singh, PPS, SP(PBI), Patiala has not investigated the case so far. SIT headed by Sh. Surinderpal Singh Parmar, IPS has recused

itself from investigating the case as allegations are against high ranking police officers and no one should be made a judge in his own cause or the rule against bias.

[25]. The issue involved in the present case is also connected with the sacrilege cases in which allegations have been made against deceased Mohinder Pal @ Bittu. Since those cases have been and are being investigated by different SITs including the investigation by SIT headed by Sh. Surinderpal Singh Parmar, IPS, therefore, I deem it appropriate to direct that the composition of the present SIT shall be revisited, thereby putting high ranking police officers not below the rank of the persons against whom allegations have been made in the diary note. Even though, some of the high ranking police officers are retired, but it shall be ensured by respondent No.1 that proper and legal investigation is carried out by the new SIT to be headed by Additional Director General of Police i.e. not less than the rank of Additional Director General of Police and constituent members of the SIT may not be lower than the rank of Senior Superintendent of Police. New SIT will take over the investigation from the SIT headed by Sh. Kesar Singh, PPS, SP(PBI), Patiala and shall carry out further investigation and submit its report to the concerned Court at the earliest.

[26]. With these observations, the present writ petition is disposed of.

(RAJ MOHAN SINGH)
JUDGE

18.08.2022
Prince

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