

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

**Reserved on 31.05.2022
Date of Decision-04.07.2022**

1. CWP No.22703 of 2020(O&M)

Param Raj Singh Umaranangal ... Petitioner

Versus

State of Punjab and others ... Respondents

2. CWP No.14076 of 2020(O&M)

Gurdeep Singh ... Petitioner

Versus

State of Punjab and others ... Respondents

3. CWP No.1996 of 2021(O&M)

Sumedh Singh Saini ... Petitioner

Versus

State of Punjab and others ... Respondents

4. CWP No.2060 of 2022(O&M)

Suhail Singh Brar ... Petitioner

Versus

State of Punjab and others ... Respondents

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

Present: Mr. Gurminder Singh, Sr. Advocate with
Mr. Sangram Saron, Advocate
Mr. Jatinder Gill, Advocate and
Ms. Surabhi Kaushik, Advocate
for the petitioner in CWP No.22703 of 2020.

Mr. R.S. Cheema, Sr. Advocate with
Mr. K.S. Nalwa, Advocate
Mr. Arshdeep Singh Cheema, Advocate
Mr. Satish Sharma, Advocate
Mr. Chakitan VS Papta, Advocate and
Mr. Yajur Sharma, Advocate
for the petitioner in CWP No.14076 of 2020.

Mr. S.P.S. Sidhu, Advocate
for the petitioner in CWP No.1996 of 2021.

Mr. Sangram Saron, Advocate
Ms. Shubreet Kaur, Advocate and
Ms. Surabhi Kaushik, Advocate
for the petitioner in CWP No.2060 of 2022.

Dr. Anmol Rattan Sidhu, Advocate General,
Punjab with Mr. Pratham Sethi, Advocate

Mr. A.P.S. Shergill, Advocate and
Mr. Manoj Verma, Advocate
for respondent No.3 in CWP Nos.22703 of 2020,
CWP No.14076 of 2020 and CWP No.1996 of
2021 and for respondent No.5 in CWP No.2060
of 2022.

Mr. Sumeet Goel, Sr. Advocate with
Mr. Aarush Neeraj Vaid, Advocate
for CBI.

RAJ MOHAN SINGH, J.

[1]. Vide this common order, CWP No.22703 of 2020 titled Param Raj Singh Umaranangal Vs. State of Punjab and others, CWP No.14076 of 2020 titled Gurdeep Singh Vs. State of Punjab and others, CWP No.1996 of 2021 titled Sumed Singh Saini Vs. State of Punjab and others and CWP No.2060 of 2022 titled Suhail Singh Brar Vs. State of Punjab and others are being considered. Since all the aforesaid cases are having identical background, therefore, common

facts pleaded in these cases are being noticed. Main order is being passed in CWP No.22703 of 2020.

[2]. Petitioner-Param Raj Singh Umaranangal was appointed as Deputy Superintendent of Police on compassionate grounds on 03.09.1987. Thereafter, he was promoted as Superintendent of Police in the year 1991. He remained posted as S.S.P, Faridkot in the year 2008-09 and DIG, Ludhiana Range, DIG Ferozepur Range and DIG Border in the year 2012. He remained posted as IG Jalandhar/Bathinda Range in the year 2013-2015.

[3]. On 01.06.2015, an incident was reported regarding the theft of Sri Guru Granth Sahib Ji from Gurdwara at Burj Jawahar Singhwala, District Faridkot. On 02.06.2015, FIR No.63 was registered at Police Station Bajakhana in respect of sacrilege incident. On 25.09.2015, FIR No.117 was registered at Police Station Bajakhana again in respect of another incident of sacrilege. On 12.10.2015, another incident of sacrilege was reported and FIR No.128 was registered at Police Station Bajakhana.

[4]. On 12.10.2015 and 13.10.2015, the mob protesting the incidents of sacrilege in Kotkapura turned violent and the situation became very alarming. The authorities resorted to mild lathi charge with the permission of the Sub Divisional Magistrate. The Sub Divisional Magistrate ordered the use of

water cannon and tear gas to disperse the violent mob. The protestors damaged and tried to snatch weapons of the police personnel and set police vehicles on fire. Thereafter, SDM ordered for firing in the air. In this incident, many police officials received injuries. The illegal assembly then continued to move towards Barghari and joined another group of protestors, which was already present at village Behbal Kalan. The Police had to do mild lathi charge. The Police personnel were also attacked with some weapons. A day earlier to that, forces from other Districts were also mobilized. Commissioner of Police, Ludhiana and SSPs from other Districts like Ferozepur, Sri Muktsar Sahib, Fazilka, Mansa and Moga were also mobilized along with force from their respective units. Director General of Police at Chandigarh was in touch with the senior police officers.

[5]. In the clash on 14.10.2015 morning, some policemen and protesters were injured at Kotkapura. Petitioner was present at Kotkapura. After few hours, information was received in respect of clash between the police party headed by Mr. Charanjit Sharma, SSP, Moga and protesters at Behbal Kalan. In the said clash, two persons died. Behbal Kalan falls under the jurisdiction of Police Station Bajakhana.

[6]. FIR No.192 was registered on 14.10.2015 for the offences under Sections 307, 353, 332, 333, 323, 382, 435, 283, 120-B, 148, 149 IPC, Section 25 of the Arms Act and Section 3/4 of the Prevention of Damage to Public Property Act, 1984 at Police Station City Kotkapura. FIR No.129 was registered at Police Station Bajakhana in respect of incident dated 14.10.2014 in village Behbal Kalan.

[7]. A Special Investigation Team was constituted by Director General of Police, Punjab comprising of Mr. Iqbal Preet Singh Sahota, IPS, Director Bureau of Investigation, Punjab as Chairman, Mr. Amar Singh Chahal, IPS, DIG, Ferozepur Range, Ferozepur as Member and Mr. R.S. Khatra, IPS, DIG, Bathinda Range, Bathinda as Member for investigating the aforesaid FIR No.129 dated 14.10.2015, Police Station Bajakhana and FIR No.192 dated 14.10.2015, Police Station Kotkapura.

[8]. A Special Investigation Team (SIT), recommended for registration of FIR No.130 dated 21.10.2015 regarding deaths in police firing. FIR was registered on the complaint made by ADGP I.S. Sahota in respect of incident dated 14.10.2015 in village Behbal Kalan, for which FIR No.129 dated 14.10.2015 had already been registered. In respect of violence at Kotkapura and Behbal Kalan, four FIRs were registered.

[9]. Vide notification dated 16.10.2015, Government of Punjab under the Commission of Inquiry Act, 1952, appointed Hon'ble Mr. Justice (Retd.) Zora Singh to inquire into the sacrilege issues and the violence which erupted thereafter. Vide notification dated 02.11.2015 issued by the State of Punjab, investigations of FIR No.63 dated 02.06.2015, FIR No.117 dated 25.09.2015 and FIR No.128 dated 12.10.2015 all registered with Police Station Bajakhana were sought to be transferred to Central Bureau of Investigation.

[10]. Statement of Pardeep Singh, Inspector was recorded before the Commission of Inquiry on 09.03.2016, wherein he did not state anything about the petitioner, rather stated that the petitioner was not present at village Behbal Kalan.

[11]. The Commission of Inquiry headed by Hon'ble Mr. Justice Zora Singh (Retd.) submitted its report, but the same was not accepted by the State Government being not based on conclusive evidence.

[12]. Second Commission of Inquiry was notified by the State of Punjab on 14.04.2017 and the same was headed by Hon'ble Mr. Justice Ranjit Singh (Retd.). Second Special Investigation Team was constituted vide order dated 25.02.2018 passed by the Director Bureau of Investigation, which was headed by Mr. Pritam Singh, PPS, SSP,

Ferozepur. The said Special Investigation Team was to conduct further investigation w.e.f. 25.02.2018.

[13]. On 30.06.2018, Commission of Inquiry headed by Hon'ble Mr. Justice Ranjit Singh (Retd.) submitted its report. Statements of Pardeep Singh, Inspector was recorded before the Commission of Inquiry on 04.07.2016, 23.07.2017 and 02.08.2017 to the same effect that the petitioner was not present at village Behbal Kalan. On the recommendations of Commission of Inquiry, FIR No.129 dated 07.08.2018 was registered for the offences under Sections 307, 323, 34, 148, 149 IPC and Section 27 of the Arms Act at Police Station City Kotkapura, District Faridkot.

[14]. Notification was issued by the State of Punjab on 24.08.2018, transferring investigation of FIR No.129 dated 07.08.2018, Police Station Kotkapura and FIR No.130 dated 21.10.2015, Police Station Bajakhana to Central Bureau of Investigation. Thereafter, subsequent decision was also taken by the State Government to transfer FIR No.129 dated 14.10.2015, Police Station Bajakhana and FIR No.192 dated 14.10.2015, Police Station City Kotkapura also to Central Bureau of Investigation.

[15]. On 24.08.2018, Action Taken Report was submitted by the Government of Punjab before the Punjab Legislative Assembly. On 28.08.2018, resolution was passed

in the State Assembly to withdraw the investigation from Central Bureau of Investigation. On 06.09.2018, two separate notifications were issued for withdrawal of investigation from Central Bureau of Investigation.

[16]. Thereafter, Director General of Police passed an order constituting a third Special Investigation Team to investigate FIR No.129 dated 14.10.2015 and FIR No.130 dated 21.10.2015, Police Station Bajakhana, FIR No.192 dated 14.10.2015 and FIR No.129 dated 07.08.2018, Police Station City Kotkapura. The SIT was comprising of:-

(i) Prabodh Kumar, Director Bureau of Investigation

(ii) Arun Pal Singh, IG, Crime

(iii) Kunwar Vijay Partap, IG, Crime

(iv) Satinder Singh, SSP, Karpurthala

(v) Bhupinder Singh, Commandant, PRTC, Jehan Khelan.

[17]. Petitioner was suspended on 26.02.2019 in view of his arrest in one of the FIRs.

[18]. During the investigation before third Special Investigation Team in FIR No.130 dated 21.10.2015, Police Station Bajakhana (subject matter of the present petition), nine persons namely Charanjit Singh Sharma, Amarjit Singh

Kalar, Bikramjit Singh, Pardeep Singh (now approver), Gurdeep Singh, Pankaj Bansal, Suhail Singh Brar, Param Raj Singh Umaranangal (present petitioner) and Sumedh Singh Saini were nominated as accused. Special Investigation Team headed by Mr. Prabodh Kumar, IPS submitted four police reports under Section 173 Cr.P.C before the trial Court. First police report was submitted on 12.04.2019 against accused Charanjit Singh Sharma.

[19]. Third Special Investigation Team constituted vide order dated 10.09.2018 was segregated in two separate sub-teams. Sub-Team-II comprising of Kunwar Vijay Partap, IG, Crime, Head of sub team, Satinder Singh, SSP Kapurthala and Bhupinder Singh, Commandant PRTC, Jehan Khelan as members remained in team. Prabodh Kumar, Director Bureau of Investigation was transferred in routine transfer and Arun Pal Singh, IG, Crime showed his inability to return from ex-India leave due to COVID-19 lockdown. The aforesaid sub team-II was entrusted with the task of investigating all the aforesaid four FIRs in Behbal Kalan and Kotkapura. General Diary No.19 was registered in FIR No.130, thereby adding Sections 194 and 195 IPC on 03.06.2020. General Diary No.34 was registered in FIR No.130, wherein Sections 218 and 201 IPC were added on 16.06.2020.

[20]. Co-accused Sohail Singh Brar previously cited as a witness in the first report under Section 173 Cr.P.C dated 12.04.2019 was arrested in FIR No.130 dated 21.10.2015, Police Station Bajakhana. Pankaj Bansal who was also cited as a witness in the aforesaid first report under Section 173 Cr.P.C dated 12.04.2019 was arrested on 20.06.2020 in FIR No.130 dated 21.10.2015, Police Station Bajakhana. Suhail Singh Brar and Pankaj Bansal were granted bail in FIR No.130 dated 21.10.2015 on 21.08.2020.

[21]. Inspector Pardeep Singh, who was present at the scene of occurrence made an application to the Investigating Officer of the Special Investigation Team for becoming an approver. On 03.09.2020, Inspector Pardeep Singh made a statement before the Judicial Magistrate First Class, Faridkot, wherein he has implicated the petitioner and Sumedh Singh Saini as accused. On 15.09.2020, Inspector Pardeep Singh was made an approver by the Court of Sessions at Faridkot.

[22]. Co-accused Gurdeep Singh filed CWP No.14076 of 2020. Vide order dated 25.09.2020, High Court was pleaded to order that no supplementary report in terms of Section 173(8) Cr.P.C shall be submitted by the Special Investigation Team. Subsequently, the said order was modified to the extent that it applied only viz-a-viz the writ petitioner i.e. Gurdeep Singh in CWP No.14076 of 2020.

[23]. In view of statement of the approver, petitioner was arrayed as an accused in the aforesaid FIR No.130 vide General Diary No.16 on 27.09.2020. Supplementary report under Section 173(8) Cr.P.C was filed on 09.10.2020 qua Amarjit Singh Kalar, Bikramjit Singh, Pankaj Bansal and Suhail Singh before the trial Court. Again a supplementary report under Section 173(8) Cr.P.C was filed on 15.01.2021 qua the petitioner and Sumedh Singh Saini. Supplementary report under Section 173(8) Cr.P.C was also filed on 12.03.2021 regarding sanction taken by the Home Department.

[24]. At the time of filing of third supplementary report under Section 173(8) Cr.P.C against the petitioner and Sumedh Singh Saini the then D.G.P, police investigation qua co-accused Gurdeep Singh was statedly pending. Now report under Section 173(8) Cr.P.C has been prepared even qua co-accused Gurdeep Singh, but the same could not be filed owing to the order dated 25.09.2020 passed in CWP No.14076 of 2020.

[25]. Learned Senior Counsel for the petitioner vehemently argued that in view of Action Taken Report tabled before the Punjab Assembly, only departmental action was proposed against 14 police officers including the petitioner. No criminality was shown against the petitioner. Details of those

14 police officers find mentioned in column No.10 of the Action Taken report, which are as under:-

- (1) Mr. Charanjit Singh Sharma, the then SSP, Moga.
- (2) Mr. Amar Singh Chahal, the then DIG, Ferozepur Range.
- (3) Mr. Rohit Chaudhary, the then ADGP/Law and Order.
- (4) Mr. Raghubir Singh, the then SSP, Mansa.
- (5) Mr. Hardial Singh Mann, the then SSP, Ferozepur.
- (6) Mr. S.S. Mann, the then SSP.
- (7) Mr. M.S. Chhina.
- (8) Mr. Sumedh Singh Saini, the then DGP.
- (9) Mr. IPS Sahota, the then Head of SIT.
- (10) Mr. Jatindera Jain, the then IGP, Bathinda.
- (11) Mr. Param Raj Umaranangal, the then Commissioner of Police, Ludhiana (petitioner)
- (12) Mr. Baljit Singh Sidhu, the then DSP, Kotkapura.
- (13) Mr. Jagdish Bishnoi, the then DSP.
- (14) Mr. Birkamjit Singh, the then S.P.

[26]. Petitioner was proceeded against departmentally and show cause notice for disciplinary action was issued

against the petitioner on 23.08.2018. Charge-sheet was served upon the petitioner on 24.09.2020 for imposing major penalty. Petitioner was placed under suspension firstly on 26.02.2019 and secondly w.e.f. 26.09.2020 vide order dated 20.11.2020 under Rule 3(3) of All India Service (Discipline and Appeal) Rules, 1969, vide which review order was passed in respect of suspension of the petitioner.

[27]. Learned Senior counsel further submitted that no criminality was indicated and no observations were made in respect of role of the petitioner, which may lead to inferences of dereliction of duty, misconduct or otherwise involving serious deficiency in discharge of his official duty. The suspension of the petitioner was on account of his arrest on 18.02.2019 in FIR No.129 dated 07.08.2018 under Sections 307, 323, 341, 201, 218, 120-B IPC and Section 27 of the Arms Act at Police Station City Kotkapura. Petitioner remained in custody and was granted bail on 11.03.2019 by the Court of Sessions at Faridkot.

[28]. Learned Senior Counsel further submitted that the challan was submitted in FIR No.130 on 12.04.2019 only against Charanjit Singh Sharma, the then SSP, Moga. Learned Senior Counsel by referring to the findings of Special Investigating Team in the first challan submitted that Inspector Amarjit Singh, S.P, Bikramjit Singh and Inspector Pardeep

Singh were held responsible for not projecting true facts and thus committed offence under Section 166-A read with Section 120-B IPC. Petitioner was not named in any manner. It was also mentioned that during course of investigation by the Special Investigation Team, facts have come that ruqa was scribed at Police Station City Kotkapura by S.S.P Charanjit Singh, Inspector Pardeep Singh and S.I. Amarjit Singh, S.H.O, Police Station Bajakhana on the basis of which, FIR No.129/2015 was registered at Police Station Bajakhana, wherein it has been admitted that the police in their defence had made firing on the agitating public, killing Krishan Bhagwan Singh and Gurjit Singh and injuring Beant Singh.

[29]. Thereafter, S.S.P Charanjit Singh, S.P Bikramjit Singh, Inspector Pardeep Singh and Inspector Amarjit Singh, SHO, Police Station Bajakhana under a conspiracy at the house of Suhail Singh Brar requisitioned .12 bore gun of Guard Charanjit Singh and in order to strengthen their part, fired shots on official Gypsy, thereby creating false evidence in order to shift blame on the public. To the extent of involvement of the aforesaid persons, the investigation was pending and it was observed that supplementary challan would be filed against them as well. There was no reference of the petitioner, Sumedh Singh Saini and other writ petitioners in view of first challan submitted on 12.04.2019.

Inspector Pardeep Singh was made approver under the inducement of granting pardon. His statement was recorded on 03.09.2020 after five years of the occurrence and thereafter, G.D No.16 was recorded on 27.09.2020, in which petitioner and Sumedh Singh Saini were nominated as accused in FIR No.130 dated 21.10.2015.

[30]. Learned Senior Counsel further submitted that second supplementary challan was filed by the Special Investigation Team on 09.10.2020 against four more persons namely Amarjit Singh Kalar, Bikramjit Singh, Suhail Singh Brar and Pankaj Bansal. No supplementary challan was submitted against the petitioner and Sumedh Singh Saini despite existence of G.D No.16 dated 27.09.2020 and statement of approver dated 03.09.2020.

[31]. Learned Senior Counsel further submitted that third supplementary challan was submitted by the Special Investigation Team on 15.01.2021 against the petitioner and Sumedh Singh Saini on the statement of approver (Inspector Pardeep Singh). Even the complainant Resham Singh objected to the approvership of Inspector Pardeep Singh and filed an application in the Court, but the same was dismissed. In the concluding part of the challan, following recital was made:-

"That Sumedh Singh Saini accused in this case was asked to join investigation on 25-2-2019 and similarly, Paramraj Singh Umranangal was asked to join investigation on 12-2-2019. Both have been granted blanket bail by Hon'ble Punjab and Haryana High Court."

[32]. Learned Senior Counsel submitted that perusal of third supplementary challan would show that the petitioner was arrayed as accused only in third supplementary challan on 15.01.2021 and there was no occasion for the police to ask him to join investigation on 12.02.2019 when there was not even iota of evidence against him. Even in third supplementary challan, the supplementary challan qua co-accused Gurdeep Singh was to be filed later on.

[33]. Co-accused Gurdeep Singh filed CWP No.17459 of 2019 in view of his involvement in FIR No.129 dated 07.08.2018 under Sections 307, 326, 324, 323, 341, 201, 218, 120-B, 34 IPC and Section 27 of the Arms Act and FIR No.192 dated 14.10.2015 under Sections 307, 353, 332, 333, 323, 382, 435, 283, 120-B, 148, 149 IPC, Section 25 of the Arms Act and Section 3/4 of the Prevention of Damage to Public Property Act, 1994 at Police Station City Kotkapura.

[34]. High Court vide detailed order dated 09.04.2021 passed in CWP No.17459 of 2019, quashed the investigation of the aforesaid FIRs registered in Kotkapura after recording

incriminating observations against the Investigating Officer of the Special Investigation Team. Relevant observations in this regard are reproduced hereasunder:-

“.....Accordingly, this court finds that the investigation carried out by the respondent No.3 is not free from blemish. His personal malice and malafide functioning by totally usurping the powers of SIT constituted in the first instance, has been duly demonstrated on record. The petitioners have also been successful in showing that the respondent No.3 has gone to the extent of manufacturing the statements of witnesses to suit his designs, by recording differing statements of same witnesses in these two FIRs; with convenient omissions in their statements recorded under section 161 Cr.P.C. in police FIR No.192 dated 14.10.2015 qua the violence by the protestors; whereas that finds mentioned in their statements recorded in FIR 129 Dated 07.08.2018. The record also shows that the respondent No.3 has declared the accused mentioned in the FIR No.192 dated 14.10.2015 as innocent even without recording statement of a single injured police witness. Also the conclusions drawn by the respondent No.3 are found to be against the statement of witnesses recorded and the material collected by him only. Moreover, the political interest of the current dispensation in the state qua the investigation; and the political theatrics of respondent No.3 during the instant investigation; by going to media and by repeatedly highlighting allegations against the outgoing politicians without filing challan against them; intended to create a narrative in favour of one political party and against the

other party during the election process; has duly been established as per the record. Public pressure to get the alleged erring police officials convicted also appears to have adversely affected the fairness of the investigation. As a result the fairness of investigation stands vitiated. The investigation conducted by the respondent No.3 also suffers from malice, irrationality and absurdity. Hence, this court is of the considered opinion that this is one of the rare cases where the court is under duty to step-in to prevent miscarriage of justice, instill confidence in the investigation and also to pre-empt the misuse of the process of the court; by quashing the investigation and the consequent report under section 173 Cr.P.C. filed in these two cases, while leaving state to fairly investigate these two cases again.

In view of the above, the investigation conducted by the respondent No. 3 in FIR No. 129 dated 7.8.2018 and FIR No. 192 dated 14.10.2015, both of Police Station City Kotkapura and the consequent charge-sheet filed by him, are liable to be quashed. Ordered accordingly.....”

[35]. While quashing the investigation of the aforesaid FIRs registered in Police Station City Kotkapura, Coordinate Bench vide order dated 09.04.2021 ordered that the investigation of the aforesaid cases be conducted by a Special Investigation Team of senior police officers with the following directions:-

(i) The State Government shall constitute a Special Investigation Team (SIT) of three senior IPS officers

from the State of Punjab, which shall not include the respondent No.3, and which shall include at least one officer senior to the respondent No.3 in rank and designation, to conduct the investigation in the FIR involved in the present petitions, i.e.; FIR No. 192 dated 14.10.2015 and FIR No. 129 dated 07.08.2018;

(ii) There shall be no interference from any quarter; internal or external; with this SIT qua the investigation. This SIT shall not report to any State executive or police authority qua the investigation in question. It shall report only to the concerned Magistrate, in accordance with law;

(iii) The SIT so constituted by the State Government shall work jointly. All the members of the SIT shall put their signatures on all the proceedings of the investigation as a mark of the fact that they have agreed to the said investigation;

(iv) Once constituted, that SIT shall not be changed by the State Government except in case of retirement, incapacity or death of the officer concerned;

(v) The final report of investigation shall be filed jointly as a team; under signatures of all the members of the SIT, who shall also be cited as witnesses in the list as the investigating officers;

(vi) The members of SIT shall not leak any part of the investigation, before filing the final report before the concerned magistrate. They shall not interact with media qua any aspect of investigation. Further, they shall not respond, directly or indirectly, to any doubt or opinion expressed by anyone from the public or the religious or the political establishments;

(vii) The investigation of these FIRs shall be concluded as expeditiously as possible, preferably within a period of six months from the date of the constitution of SIT.

[36]. Evidently, new SIT was directed to conclude the investigation expeditiously preferably within a period of six months from the date of constitution of Special Investigation Team.

[37]. In compliance of order dated 09.04.2021 passed in CWP No.17459 of 2019, a new Special Investigation Team under the Chairmanship of Mr. L.K. Yadav, IPS, ADGP was constituted to investigate aforesaid FIR Nos.192 and 129 of Police Station City Kotkapura.

[38]. In view of aforesaid judgment/order dated 09.04.2021 and voluntary retirement of Mr. Kunwar Vijay Partap Singh, IPS, the then IGP/main investigating officer of the present FIR, a new Special Investigation Team consisting of Mr. Naunihar Singh, IPS, Inspector General of Police as Chairman, Mr. Satinder Singh, IPS, the then Senior Superintendent of Police as Member and Mr. Swarndeeep Singh, PPS, Senior Superintendent of Police as Member has been constituted to investigate FIRs No.129 and 130 of Police Station Bajakhana.

[39]. In view of status report filed by way of affidavit of Mr. Naunihal Singh, IPS, Inspector General of Police-cum-

Chairman of the newly constituted SIT, it has been submitted that Special Investigation Team headed by Mr. Naunihal Singh, IPS, Inspector General of Police has called for the complete record of investigation as well as pending litigation so that further investigation can be carried out. All the aforesaid reports under Section 173 Cr.P.C along with material on record have been perused so as to conduct further investigation. Status report further shows that Special Investigation Team has perused the record regarding the investigation qua Gurdeep Singh and the investigation qua him has been completed and report under Section 173(8) Cr.P.C would be submitted after decision of CWP No.14076 of 2020 as presentation of challan was stayed in the aforesaid case vide order dated 25.09.2020.

[40]. Special Investigation Team has further submitted that there are interconnecting facts, which are between the occurrence of Kotkapura being investigated by SIT headed by Mr. L.K. Yadav, IPS, ADGP and the occurrence which subsequently took place at Behbal Kalan/Bajakhana, which is the subject matter of further investigation of the present SIT headed by Mr. Naunihal Singh, IPS, Inspector General of Police. The present SIT is facing problem in further investigation of the FIR No.130 in the absence of access to the investigation in Kotkapura cases, which is being

investigated by SIT headed by Mr. L.K. Yadav, IPS, ADGP in terms of directions issued by the High Court in CWP No.17459 of 2019.

[41]. Contents of para No.18 of the Status report dated 19.05.2020 are reproduced hereasunder:-

"A. It is a matter of record that the agitation(s) against the sacrilege of Sh. Guru Granth Sahib were held at Kotkapura and Behbal Kalan. There the conflict between the police and protestors took place at Kotkapura on 14.10.2015, in the early morning, where many individuals were injured and thereafter the occurrence at Behbal Kalan/Bajakhana also took place on the same day i.e. 14.10.2015 after the occurrence of Kotkapura.

B. Infact, many of the police officials/personnel/force who were present at Kotkapura, were moved immediately to Behbal Kalan/Bajakhana to deal with the law and order situation, where the conflict between the police and protestor took place leading to death of two individuals. That thereafter some of the police officials/personnel again came back to Kotkapura from Behbal Kalan/Bajakhana.

C. Further during the perusal of the record of the FIR No.130(supra) and judgment dated 09.04.2021 passed by this Hon'ble Court in CWP-17459-2019 (Gurdeep Singh's Judgment), it has been found by the present SIT, that there are interconnecting facts, which are there between the occurrence that took place at Kotkapura (now being investigated by Chairman of that SIT Sh. L.K.

Yadav, IPS, ADGP) and the occurrence that subsequently took place at Behbal Kalan/Bajakhana.

D. Infact, there are certain issues like the presence of Mr. Param Raj Singh Umaranangal, presence of Gurdeep Singh and other police officials etc., at the place of occurrences i.e. Kotkapura/Behbal Kalan, which are to be established by the present SIT as both occurrence are interconnected. Similarly, there are certain other material evidence(s) which are interconnected with regard to both the occurrences at Kotkapura and Bajakhana, and these facts need to be cross checked with the investigation of the Kotkapura cases. However, since this Hon'ble Court has specifically directed in the judgment dated 09.04.2021 as under:-

"The members of SIT shall not leak any part of the investigation, before filing the final report before the concerned magistrate. They shall not interact with media qua any aspect of investigation. Further, they shall not respond, directly or indirectly, to any doubt or opinion expressed by anyone from the public or the religious or the political establishments".

The present SIT has been facing problems in further investigation of the FIR No.130 (supra) in absence of access to the investigation in the Kotkapura cases which are being investigated by the SIT headed by Sh. L.K. Yadav, IPS, ADGP."

[42]. In view of aforesaid factual position on record, further investigation in the present case is still pending, which is dependent upon the access to be made to the material

collected by the SIT headed by Mr. L.K. Yadav, IPS, ADGP in Kotkapura cases. SIT of Mr. L.K. Yadav, IPS, ADGP is bound to obey the directions passed by the High Court in CWP No.17459 of 2019 and it appears that further investigation in the present case may take some time and a report thereof, can only be filed after proper investigation. In CWP No.17459 of 2019, directions have already been issued to the SIT to complete the investigation, preferably within a period of six months from the date of constitution of new Special Investigation Team. A new Special Investigation Team comprising of Mr. L.K. Yadav, IPS, ADGP/Vigilance Bureau, Mr. Rakesh Agrawal, IPS, Commissioner of Police, Ludhiana and Mr. Surjit Singh, IPS, DIG, Faridkot Range has been constituted vide Government order dated 07.05.2021. Special Investigation Team in the present case comprising of Mr. Naunihal Singh, IPS, IGP, Ludhiana Range, Mr. Satinder Singh, IPS, SSP, SAS Nagar and Mr. Swarandeep Singh, PPS, SSP, Faridkot has been constituted vide order dated 15.05.2021 passed by the Director Bureau of Investigation, Punjab for investigation of two cases bearing FIR No.129 dated 14.10.2018 and FIR No.130 dated 21.10.2015 registered at Police Station Bajakhana, District Faridkot.

[43]. In CWP No.14076 of 2020, learned Senior Counsel for the petitioner submitted that respondent No.3 conducted

reinvestigation with change of structure without leave of the Court. The first challan was submitted without Mr. Kunwar Vijay Partap, IG, Crime being a member of the SIT. Since challans have been submitted by Kunwar Vijay Partap, IG, Crime, the investigation of whom being intrinsically overlapping stands quashed by the High Court in CWP No.17459 of 2019, therefore, Investigating Team be directed to keep the first challan intact. Learned Senior Counsel relies upon **Babu Bhai Vs. State of Gujarat, (2010) 12 SCC 254.**

[44]. In CWP No.14076 of 2020, filing of report under Section 173(8) Cr.P.C has been stayed by the High Court. As per stand of the State, investigations in FIRs at Kotkapura and Bajakhana are interconnected. The further investigation in the FIR at Bajakhana can only be made, provided investigation in Kotkapura cases is made available to the SIT headed by Mr. Naunihal Singh, IPS, IGP. Special Investigation Team headed by Mr. L.K. Yadav, IPS, ADGP in Kotkapura cases is investigating the cases as per directions of the High Court and that report is not to be made public and has to be submitted to the concerned Court as per directions thereof.

[45]. In the light of aforesaid facts, further investigation in the present case may take some time. Investigation in Kotkapura cases was ordered to be conducted preferably within a period of six months from the date of constitution of

SIT. It is pertinent to mention here that the cases are fixed before the trial Court at the stage of framing of the charges and other miscellaneous proceedings. It appears that the trial Court has not proceeded further for want of report of further investigation.

[46]. It is a settled principle of law that the charges can be framed even on strong suspicion. No meticulous examination of prosecution or defence material is permissible so as to assess gravity or otherwise of the allegations. The complicity of the petitioners would be tested before the trial Court, for which, the petitioners/accused would be at liberty to argue their respective cases at the stage of framing of charges and seek discharge in accordance with law. It is also a settled position of law that charge can be altered at any stage.

[47]. Since investigation is both the cases i.e. Kotkapura and Behbal Kalan are intrinsically mixed up and the present Special Investigation Team headed by Mr. Naunihal Singh, IPS, IGP is feeling handicapped in the absence of material collected by the Special Investigation Team of Kotkapura, therefore, it is desired that Special Investigation Team headed by Mr. L.K. Yadav shall conduct the investigation as per directions issued by the High Court in CWP No.17459 of 2019 and submit report of investigation to the competent Court at

the earliest. Special Investigation Team headed by Naunihal Singh, IPS, IGP shall proceed to conduct further investigation in accordance with law and shall submit report under Section 173 Cr.P.C before the trial Court, whereupon the petitioners would be at liberty to address arguments at the time of framing of charges and seek appropriate order in accordance with law.

[48]. I have no doubt in my mind that all the legal arguments can be raised before the competent Court at the relevant stage and the trial Court shall deal with the contentions of the accused in accordance with law. The plea of innocence by Suhail Singh Brar in the facts and circumstances of the case, shall also be dealt with by the trial Court in accordance with law. The facts of the case of Sumedh Singh Saini, the then DGP are at par with that of Param Raj Singh Umaranangal as he was also implicated in the third supplementary challan after recording statement of approver Inspector Pardeep Singh and General Diary No.16 dated 27.09.2020.

[49]. At this stage, all these cases are disposed of without meaning anything on merits of the case(s), thereby giving liberty to the petitioners to address arguments at the time of framing of charges. The prosecution in turn, shall submit report of further investigation to the trial Court at the

earliest as it appears that in Kokapura cases, report has been prepared. The trial Court shall proceed to take all these cases simultaneously on the same day and decide the same in accordance with law. Petitioners if aggrieved thereafter, may resort to their legal remedies.

[50]. Nothing expressed hereinabove, would be construed to be an opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

04.07.2022
Prince

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