

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

CWP-3098-2023

Date of decision : 21.02.2023

Gajender Singh

...Petitioner

Vs.

State Bank of India and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Rajesh Bansal, Advocate for the petitioner.

MANOJ BAJAJ, J.

By means of this writ petition under Article 226 Constitution of India petitioner has prayed for a writ of certiorari to challenge the show cause notice dated 06.10.2020 (Annexure P-1) as well as the charge sheet dated 25.07.2022 (Annexure P-2), thereby initiating departmental inquiry against him, on the ground that on similar charges, he is facing prosecution through FIR No.137 dated 19.04.2019 (Annexure P-3) registered under Sections 120-B, 201, 408, 420, 468 and 471 IPC at Police Station City Bahadurgarh, District Jhajjar. Further prayer is for a writ of mandamus directing the respondents to defer the departmental proceedings till the conclusion of criminal trial.

Learned counsel submits that the petitioner joined the respondent-Bank as Clerk in the year 2015, who performed his duties sincerely and with diligence, but he was falsely implicated in case FIR No.137 dated 19.04.2019 registered under Sections 120-B, 201, 408, 420, 468 and 471 IPC at Police Station City Bahadurgarh, District Jhajjar. He submits that in the said case, the trial has commenced and two prosecution witnesses have also been examined.

Learned counsel has pointed out that on the same set of allegations,

departmental inquiry has also been initiated against the petitioner and since in both these proceedings, evidence is common, therefore, till the proceedings in the criminal trial is concluded, the continuation of departmental inquiry can be put on hold to await the said decision. He submits that since the charge-sheet dated 25.07.2022 (Annexure P-2) is founded upon the allegations contained in the FIR, therefore, the inquiry proceedings be kept in abeyance in view of the decision of Hon'ble the Supreme Court in “**Capt.M.Paul Anthony Vs. Bharat Gold Mines Ltd.**”, 1999 (3) SCC 679.

After hearing learned counsel and analyzing the material on record, it comes out that the FIR against the petitioner was registered in April 2019 and after completion of investigation, the trial had already commenced when charge sheet dated 25.07.2022 relating to the departmental inquiry was served upon him. The argument that since both these proceedings are based upon common set of allegations, therefore, departmental proceedings deserves to be stayed is without any merit as the standard of proof required in these two distinct proceedings are materially different. In criminal trial, the onus of proof rests upon prosecution and concededly, prosecution is yet to close its evidence. Further, simultaneously, if the departmental inquiry is continued against the petitioner, it would not result in any prejudice to him. In the given facts, the decision relied upon by learned counsel in Capt.M.Paul Anthony's case (supra) does not lend any strength to the petitioner's case as Hon'ble the Supreme Court after examining various citations on this issue held that the departmental proceedings and the prosecution in a criminal trial can proceed parallel to each other. Apart from it, the Hon'ble Supreme Court also held that in case trial is not making any progress or is delayed, the departmental proceedings, even if

stayed, can be resumed.

Resultantly, no ground is made out for exercise of extraordinary writ jurisdiction.

Dismissed.

(MANOJ BAJAJ)
JUDGE

21.02.2023
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No