

CRR-4730-2016

2023:PHHC:140278

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

CRR-4730-2016 (O&M)

Decided on: 03.11.2023

Jasbir Singh

...Petitioner

Versus

Central Bureau of Investigation and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. C.S. Bakshi, Advocate for the petitioner.

Mr. Rajeev Anand, Advocate for respondent-CBI.

Mr. Shiva Khurmi, AAG, Punjab.

Mr. A.P.S. Deol, Sr. Advocate with
Mr. Vishal R. Lamba, Advocate for respondent No.4.

ANOOP CHITKARA, J.

1. This petition has been filed by Jasbir Singh, seeking the quashing of the impugned order dated 18.02.2016 passed by Special Court C.B.I. Punjab, Patiala in SC No.5T of 2014, titled State of Punjab vs. Jasbir Singh, registered under Sections 307, 459, 148, 149 IPC, a cross-version in F.I.R. No.RC0512012(S)/0009/2012 dated 13.12.2012 under Sections 302, 307, 326, 324, 201, 34 I.P.C. and Sections 25 & 27 of Arms Act, Police Station CBI/SCB, Chandigarh.

2. Petitioner's case is that based on the statement of Harjinder Singh, who is the cousin brother of the petitioner, an FIR was registered because Amarjit Singh murdered Harjinder Singh's father @ Jeeti, and Amarjit Singh is the brother of respondent No.4, an MLA from Mohali. Due to the influence of the said MLA, a cross-case was also registered against the petitioner.

3. The complainant submits that due to influenced investigation, Punjab police submitted two challans, both in the case registered the case of the petitioner's cousin's brother and in the cross-case registered against the petitioner. Subsequently, the petitioner challenged the same and came to this Court. Finally, this Court transferred the investigation to CBI in both cases, i.e., the case registered for the murder of the petitioner's brother and the cross-case registered against petitioner.

4. The CBI investigated both matters and concluded that the case registered against the petitioner was false and fabricated. However, the FIR registered at the instance of the petitioner's cousin's brother was found to be truthful. CBI filed a joint prosecution

report in both cases. Before that, Punjab police had already filed a separate police report under Section 173 CrPC in the FIR and the cross-case against the petitioner. Since the CBI did not find the allegations in the cross-case truthful, they absolved the petitioner in the cross-case. Since both the matters had been transferred to CBI, the prosecution started in CBI's Court.

5. During the pendency of the trial, the Public Prosecutor for the State of Punjab moved an application seeking permission to prosecute the trial of the cross-case, i.e., State of Punjab vs. Jasbir Singh, on behalf of the State. Vide impugned order dated 18.02.2016, Special Judge, CBI, Punjab, Patiala, allowed the said application and directed that trial to be conducted by the Special Public Prosecutor, and deputed by the District Attorney of the State of Punjab. Feeling aggrieved by the said order, the petitioner has come up before this Court.

6. The petitioner's grievance is that once the CBI has absolved him, there is no reason for the trial Court to conduct separate trials. Moreover, if the trial has to continue separately, it must be conducted by the Public Prosecutor deputed by CBI because if it is not done, it would materially prejudice the petitioner and his family, who were complainants in the main murder case and have been declared innocent by the CBI in further investigation in cross-case. Just because the CBI did not file a separate report after the investigation, it cannot be said that the CBI has no jurisdiction; however, after the investigation of both matters, the CBI is duty-bound to defend its report of declaring the petitioner as innocent.

7. Counsel appearing for the State submits that evidence collected by the State police is enough to launch prosecution against the petitioner; however, CBI has no material; therefore, prosecution should be conducted by counsel/Public Prosecutor deputed by the State. I have also gone through the case file.

8. There were two cases: one filed by the petitioner's family for the murder of one of their family members against the accused, Amarjit Singh, who was the brother of respondent No.4. The Second one was filed against the petitioner by an accused party. In this case, Punjab police had conducted an investigation and filed a report under Section 173 CrPC. The petitioner had sought further investigation, and this Court transferred the investigation of both the cases to the CBI. After that, the CBI conducted the investigation and decided to launch prosecution by filing a composite report in a murder case. Thus, qua one incident, two complaints were filed; one on behalf of the police, which was in the shape of the report under Section 173(2) Cr.P.C., and the second was by CBI, which originated from 173(8) Cr.P.C. Both investigating agencies sought prosecution and trial in the murder case registered at the instance of the petitioner's family. However, the CBI absolved the petitioner in the cross-case, being innocent. The

CBI finally launched prosecution in the murder case, and the CBI Prosecutor conducted

it, and there can be no illegality in this regard. However, in the cross case, in which Punjab police had investigated and decided to launch prosecution by filing a report under Section 173(2) Cr.P.C., when the CBI further investigated the matter, they did not find evidence and found allegations to be false, and as such, they filed a composite report. Vide the impugned order dated 18.02.2016, the State of Punjab sought permission from the trial Court in the cross-case to conduct prosecution by their public prosecutor as challan was filed by Punjab police, which was allowed vide impugned order. Against this order, the petitioner had come up before this Court.

9. Vide order dated 22.08.2017, a Co-ordinate Bench of this Court directed the trial Court to not allow counsel except the Special Public Prosecutor for CBI to represent in the cross version. Thus, the Co-ordinate Bench of this Court had permitted the counsel for CBI to conduct the cross-case. The said order is continuing to date.

10. The factual situation is that the State of Punjab wanted to conduct prosecution through their Special Public Prosecutor, while the CBI did not find any evidence against the petitioner and did not launch any prosecution in the cross-case. After this, the Court asked the trial Court not to allow any other prosecutor except the Special Public Prosecutor for CBI to re-present in the cross version. Since the CBI has no material to support the case of the prosecution in the cross-case, as such the trial Court allowed state counsel to assist the Court because State police had collected evidence against the petitioner. However, if the Public Prosecutor for the State of Punjab is to conduct the trial in the cross-case, the petitioner is likely to be prejudiced as he was absolved by CBI, per the composite report of CBI. Thus, to ensure that justice is done, and the voyage in pursuing justice finally reaches its destination, it is desirable to pass the following order in the interest of justice, equity, and fair play.

11. Now, the leading case is being conducted by CBI through their Public Prosecutor; however, cross-case against the petitioner, in which CBI had found the petitioner innocent, will be conducted jointly by the counsel appearing for the State of Punjab as well as counsel for CBI. If CBI counsel(s) appearing for the CBI and State have any conflicting stand to any point, then the trial Court shall consider such point and decide the same following law. The interim order passed by this court also stands modified to the said extent.

12. Counsel for the petitioner submits that the trial is pending for a long time and as of 07.10.2023, only three witnesses have been cross-examined. He also prayed for directions to the trial Court to decide the case expeditiously, as the matter has been hanging fire since 2012.

13. Since this incident relates to the year 2012 and because of such a long pendency, the trial might have been delayed, and this Court requests the trial Court to endeavor

and, if possible, to conclude the trial within one year from today.

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14. Given above, the petition stands disposed of with the observation made above.
Pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

03.11.2023
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Whether speaking/reasoned: Yes
Whether reportable: No.