

2024.PHHC.134919



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

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**CWP-26327-2021
Date of Decision: 15.10.2024**

ASHOK KUMAR

... Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Rohit Bhardwaj, Advocate and
Mr. Sushil Bhardwaj, Advocate
for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana
for respondents No.1 to 4.

Mr. Ravi Kamal Gupta, Advocate
for respondent No.5-CBI.

Mr. Rampal Kohli, Advocate for
Mr. Tajender Joshi, Advocate
for respondent No.6.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the challan/final report under Section 173(2) Cr.P.C. dated 10.11.2021 submitted by the police in FIR No.332 dated 24.08.2021 under Section 302, 307, 120-B IPC and Section 25 of the Arms Act, registered at Police Station Rajendra Park, Gurugram, District Gurugram. A further prayer has also been made to hand over the

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investigation to the SIT or CBI alleging that the investigation has not been conducted in a fair and impartial manner.

Learned State Counsel, however, has pointed out that no application under Section 173(8) Cr.P.C. has been preferred by the petitioner against the final report submitted under Section 173(2) Cr.P.C., and still further, the charges have already been framed. He further contends that there are two separate sessions cases i.e. Sessions Case No.816-2021 titled as State Vs. Rai Singh and another and Sessions Case No.517 of 2023 titled as State Vs. Anand, in which the proceedings have made much headway. He further submits that as many as 16 witnesses have been examined in Sessions Case No.816 of 2021 and 11 witnesses have been examined in Sessions Case No.517 of 2023.

He further places reliance on the judgment passed by this Court in *Raj Kumar and Another Versus State of Haryana and another* bearing No.CRM-M-1113 of 2017 decided on 30.11.2023 (*Neutral Citation No.NCPHHC 165691*), wherein under similar circumstances, when the final report had been filed before the trial Court and the trial had already proceeded, the prayer for transfer of investigation was declined.

Learned counsel for the petitioner is not in a position to rebut the aforesaid factual aspect pointed out by the learned State Counsel as also the applicability of the judgment rendered by this Court in the matter of *Raj Kumar (supra)*.



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In view of the above, the prayer in the present petition, seeking the investigation to be conducted by the SIT or CBI, is accordingly declined at this stage.

The petitioner shall, however, be at liberty to take all pleas/objections as are available to him in accordance with law, before the trial Court.

Disposed of accordingly.

OCTOBER 15, 2024.
rajender

(VINOD S. BHARDWAJ)
JUDGE

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