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

CRM-M-29318-2025 (O&M)

Date of decision: 05.08.2025

Harbhajan Kaur and another

...Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Simranjeet Singh Sidhu, Advocate (*through video conferencing*),
Ms. Dhvani Sharma, Advocate
for the petitioners.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been preferred under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') [*erstwhile Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.')*] seeking issuance of directions to the official respondents to conduct re-investigation in FIR No.266 dated 09.11.2024 under Sections 103, 331(6) & 351(2) of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') (*Section 331(6) of BNS was deleted and Sections 331(8) & 61 of BNS were added later on*) (*wrongly mentioned as BNSS*), registered at Police Station Tanda, District Hoshiarpur, by Central Bureau of Investigation or any other

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independent investigating agency.

2. Learned counsel for the petitioners, *inter alia*, contends that due to matrimonial discord between Baljit Singh (son of petitioner No.1 and brother of petitioner No.2) and his wife, namely Paramjit Kaur, the petitioners have been falsely implicated in the FIR (*supra*), which was registered on the statement of complainant Parminder Kaur, on the allegations that her husband Harjit Singh and father-in-law Jagjit Singh are residing in America and she along with her mother-in-law Balwinder Kaur and her minor son, namely Yugraj Singh, are residing in India. On 08.11.2024, in the night, they slept and on 09.11.2024, in the early morning, on hearing some noise, her mother-in-law went outside. After sometime, she heard voices of screaming and when she went out of the room, she saw that petitioner No.2 Mandeep Singh was giving knife blows to her mother-in-law on her neck. Upon raising an alarm, petitioner No.2 along with knife ran away from the spot. Thereafter, upon checking, her mother-in-law was found dead.

3. Learned counsel for the petitioners further contends that petitioner No.2 was arrested on 09.11.2024 at 06.00 a.m. from his house and at the time of murder of Balwinder Kaur, he was doing 'Sewa' in Gurudwara Sahib along with Manjit Kaur and Sweet Kaur and they returned home together and the jurisdictional police authorities, in spite of making efforts to search the real culprits, implicated the petitioners and their family members

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at the instance and influence of the complainant. Even arrest of petitioner No.1 was shown from Village Feroze Rolia, District Hoshiarpur on 10.11.2024, however, he was arrested on 09.11.2024 at 06.00 a.m. Thereafter, on the basis of supplementary statement (Annexure P-2) made by the complainant on 11.11.2024, vide Rapat No.22 dated 11.11.2024, Section 61 of BNS was added and petitioner No.1 was also nominated as accused. The complainant recorded another supplementary statement (Annexure P-3) on 19.11.2024 and vide Rapat No.37 dated 19.11.2024, Baljit Singh (son of petitioner No.1 and brother of petitioner No.2) was also nominated as accused, who is residing in Australia for the last many years. It is further contended that after conducting the investigation in partial and biased manner, final report under Section 193 of BNSS was presented on 28.01.2025 (Annexure P-4). Feeling aggrieved against false implication of the petitioners, wife of petitioner No.2 submitted a representation dated 27.12.2024 (Annexure P-5) to the jurisdictional police authorities, inquiry of which was marked to Superintendent of Police (Investigation), Hoshiarpur, who recorded statements of respectables of the society, Sarpanch and Panches of Village Talwandi Dadian, Police Station Tanda, District Hoshiarpur (Annexures P-6, P-7 & P-8) and it was concluded that no action is required to be initiated therein, as discernible from enquiry report (Annexure P-10). Even statements of petitioner No.2 and his wife Sweet Kaur (Annexure P-9) were also recorded, however, the same did not find

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mention in the enquiry report (Annexure P-10). Further, brother of petitioner No.2, namely Manpreet Singh, also moved an application (Annexure P-11) to Deputy Inspector General of Police, Jalandhar Range, Jalandhar regarding the manner, in which his brother has been implicated, however, till date, no action has been taken thereon. Furthermore, it is apparent from statements of respectables of the society that petitioner No.1 was at home at the time of alleged occurrence and in her initial version, the complainant did not level any sort of allegation against her. It is also contended that false implication of the petitioners can be proved from two videos, which are in their possession. In one video, it can be seen that petitioner No.2 was arrested from his house on 09.11.2024 at 06.00 a.m. and in another video, knife is seen being taken from house of the petitioners. In view of these facts and circumstances, it is prayed that the investigation of FIR (*supra*) may be transferred to Central Bureau of Investigation or any independent agency.

4. I have heard learned counsel for the petitioners and perused the record of the case with his able assistance.

5. Time and again, the Constitutional Courts have reiterated that Central Bureau of Investigation ought not to be involved in investigations already being handled by the jurisdictional police officials, merely on the *ipse dixit* of the complainant. In ***Mithilesh Kumar Singh Vs. State of Rajasthan, 2015(1) RCR (Criminal) 437***, the Hon'ble Supreme Court allowed the transfer of investigation, but also opined that while considering



the transfer of investigation, the Courts have to remain sensitive to the principle that such a transfer is not made solely because a party desires it. It is only when justice becomes a victim because of shabby or partisan investigation or when discovery of truth appears impossible, that investigation may be transferred. The Co-ordinate Benches of this Court in ***Satish Kumar Saini and another Vs. State of Punjab and others, 2025(1) RCR (Criminal) 436*** as well as in ***Talima Vs. State of Haryana and Ors., 2024(3) RCR (Criminal) 128*** have opined that investigation may not be transferred to the Central Bureau of Investigation merely because certain allegations are made against the police officials. Further still, a Co-ordinate Bench of this Court in ***Harinderpal Singh Bassi Vs. State of Punjab and others, CRM-M-60024 of 2022***, decided on 04.01.2024, speaking through Justice Deepak Gupta, laid down the following parameters, which are to be considered, while deciding transferring investigation to the Central Bureau of Investigation:

“16. Keeping in mind the precedents as laid down by Hon’ble Apex Court, following principles emerge:

- The power to transfer an investigation is extraordinary and must be used “sparingly”, cautiously and only “in exceptional circumstances”.*
- No one can insist that an offence be investigated by a particular agency. An aggrieved person can only claim that the alleged offence be investigated properly, but he has no right to claim that it be investigated by any particular agency of his choice.*
- Transfer of investigation is not to be directed by the Court just for the asking nor the same is transferred only to satisfy the ego or vindicate the prestige of a party interested in such investigation, but the decision whether*

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transfer should or should not be ordered, rests on the Court's satisfaction depending upon facts and circumstances of a given case.

- *The power to order fresh, de novo or re-investigation is vested with the Constitutional Courts; and the commencement of a trial and examination of some witnesses cannot be an absolute impediment for exercising the said constitutional power, which is meant to ensure fair and just investigation.*
- *Though satisfaction of want of proper, fair, impartial and effective investigation eroding its credence and reliability is the precondition for a direction for further investigation or reinvestigation, submission of the charge sheet ipso facto or the pendency of the trial can, by no means, be a prohibitive impediment.*
- *Following exceptional situations may be considered while ordering transfer of investigation:*
 - *where it becomes necessary to provide credibility and instil confidence in the public mind, in the investigations, or where the incident may have national and international ramifications, or*
 - *where such an order may be necessary for doing complete justice and enforcing the fundamental rights, or*
 - *when the Court feels that the investigation by the police authorities is not in a proper direction, or*
 - *when high police officials are involved in the alleged crime, or*
 - *where investigation by the State police lacks credibility and it is necessary for having "a fair, honest and complete investigation", and particularly, when it is imperative to retain public confidence in the impartial working of the State agencies. ..."*
 - *when there is a reasonable apprehension about justice becoming a victim because of shabby or partisan investigation."*

6. Reliance can also be placed on the judgments rendered in ***State of West Bengal and others Vs. The Committee For Protection of***

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Democratic Rights West Bengal and others, (2010) 3 SCC 571, Abhishek Chetal Vs. Central Bureau of Investigation and others, 2019(2) RCR (Criminal) 177, Sudipta Lenka Vs. State of Odisha and another, (2014) 11 SCC 527 and Union Territory of Chandigarh Vs. Mohit Dhawan, passed in SLP (Criminal) No.3405 of 2023, decided on 06.08.2024.

7. Recently, a two Judge Bench of the Hon'ble Supreme Court in *Vinay Aggarwal Vs. The State of Haryana and others, (2025) 5 SCC 149*, speaking through Justice Sudhanshu Dhulia, opined as follows:

“7. We are only on the issue of handing over the investigation to the CBI. In State of W.B. v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571, a Five-Judge Bench of this Court held that Constitutional Courts are fully empowered to direct for CBI investigation, and restrictions under the Delhi Special Police Establishment Act, 1946 do not apply to Constitutional Courts. However, this Court had also observed that CBI investigation should not be directed in a routine manner or just because some allegations have been made against the local police. Courts should direct for CBI investigation only in exceptional cases. This is what was said by this Court :

"70.....Insofar as the question of issuing a direction to CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil

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confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations."

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9. The High Courts should direct for CBI investigation only in cases where material prima facie discloses something calling for an investigation by CBI and it should not be done in a routine manner or on the basis of some vague allegations. The "ifs" and "buts" without any definite conclusion are not sufficient to put an agency like CBI into motion [See: Minor Irrigation & Rural Engg. Services, U.P. v. Sahngoo Ram Arya, (2002) 5 SCC 521]. After going through the records of the case, we are of the view that the present case is not the one where CBI investigation ought to have been directed by the High Court ." (emphasis added)

8. Adverting to the matter at hand, this Court is of the considered opinion that learned counsel for the petitioners has failed to indicate any bias on part of the investigating agency, that would warrant transfer of investigation. Accordingly, the present petition is dismissed.

9. Nothing observed hereinabove shall be construed to be an expression of opinion by this Court on the merits of the case, lest it may prejudice the investigation. The investigating agency is directed to proceed

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with the matter, strictly in accordance with law.

10. All the pending miscellaneous application(s), if any, shall stand disposed of.

05.08.2025
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[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No