

2025.PHHC:160182



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

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CRM-M-43706-2022 (O&M)

Date of decision: 18.11.2025

Central Bureau of Investigation

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Akashdeep Singh, Special PP, CBI.

Mr. Jasjit Singh, DAG, Punjab.

Mr. PS Ahluwalia, Sr. Advocate with
Mr. Keerat Dhillon, Advocate
for the Intervenor.Ms. Komal Mahindra, Advocate for
Ms. Satwant Mehta, Advocate
for respondent No.7.

AMAN CHAUDHARY, J. (Oral)

1. Prayer in the present petition filed under Section 407/482 Cr.P.C. for transfer of the trial record of FIR No.16 dated 04.08.2017, registered under Sections 21/25/29/61/85 of NDPS Act and Sections 25/54/59 of the Arms Act, at Police Station SSOC, Amritsar to the Court of Ld. Special Judge-II, CBI Mohali in case RC 01(S)/2021/CBI/SCB/CHG.

2. This Court passed an order dated 12.01.2021 in CRM-M-3144-2018 wherein direction was given to the CBI to carry-out further investigation, operative portion thereof reads thus:-

“Keeping in view the aforesaid facts, the petition is allowed. FIR no.16, dated 04.08.2017, registered under Section 21, 25, 29 61, 85 of the Narcotics Drugs and Psychotropic Substances Act, 1985 and

Section 25, 54, 59 of the Arms Act, is directed to be transferred to the Central Bureau of Investigation – respondent no.6. It is expected that the Central Bureau of Investigation would carry out further investigation in these circumstances and thereafter, take appropriate steps. The Punjab Police is directed to hand over the complete file alongwith CCTV footage and original document Annexure P-1 to the Central Bureau of Investigation forthwith against receipt. The Central Bureau of Investigation is, also, directed to register an FIR against the erring officials, noticed in the report submitted by Special DGP, Punjab. It is expected that the Central Bureau of Investigation would carry out free, fair and impartial investigation, in the matter.

In the meantime, till the Central Bureau of Investigation completes its investigation in FIR no.16, dated 04.08.2017, learned trial court is directed to keep on hold further proceedings in the case qua the petitioner.

With these observations, the petition is allowed.”

3. It is stated that charges were framed by the Court of Special Judge, Amritsar on 02.01.2019 and 8 PWs were also examined, while, after investigation pursuant to the aforesaid order, CBI presented the final report before Special Judge, CBI, Punjab, SAS Nagar Court, wherein also charges stood framed on 20.09.2023 and one out of 82 PWs was examined.

4. The controversy is no longer *res integra* in view of judgment of the Division Bench in **Court on its own motion vs. State of Haryana**, Criminal Reference No.3 of 2018 and connected cases, decided on 06.10.2020, to which no challenge was made, relevant paras whereof read thus:-

“2. From the above it is clear that initially a reference was made u/s 395 (2) of the Code of Criminal Procedure by the Ld. Special Judge, CBI on the question:

“As to, whether the court of learned Special Judicial Magistrate, CBI, while exercising its jurisdiction and considering the closure report submitted by the CBI and while following the ratio of law laid down by the Hon'ble Supreme Court in Vinay Tyagi (supra) case, is competent to make observations on merits qua the challan filed by local Police before the court of Ld. Additional Sessions Judge, Gurgaon and qua which a separate trial is pending before the said Court of learned Special Judicial Magistrate, CBI or this court adopt to resolve the anomalous situation which has arisen in this case on account of afore-noted facts”.

The Ld. Single Judge has formulated the following issues for consideration by the larger Bench :

“As the criminal reference has been sent to this Court and this Court is to discuss the orders passed by the coordinate Bench while handing over the investigation to CBI and also to discuss the matter regarding the orders passed by the learned Additional Sessions Judge and the Special Judicial Magistrate CBI regarding which the revision petition is pending before another Co-ordinate Bench, therefore, it is required that this criminal reference is to be decided by the larger Bench. Otherwise also, this matter has to be finally decided by the larger Bench as in so many cases when the Police challan is presented and the investigation is entrusted to CBI, then it is to be seen as to what to do with the FIR case and specially when the trial Court has taken the cognizance and no order has been passed regarding the FIR case by the High Court while entrusting the investigation to CBI.

Anomalous situation in this case stands arisen. The Special Judicial Magistrate CBI while considering the cancellation report as per law is to consider all the reports filed by the Police or by the CBI etc. The trial is pending before the learned Additional Sessions Judge and the learned Special Judicial Magistrate CBI is to consider that also as per law while considering the closure report filed by the CBI.

Therefore, the necessity arises that this criminal reference should be decided by the larger Bench.”

Thus, the question that is required to be considered by this Bench is essentially this:

“Otherwise also, this matter has to be finally decided by the larger Bench as in so many cases when the Police challan is presented and the investigation is entrusted to CBI, then it is to be seen as to what to do with the FIR case and specially when the trial Court has taken the cognizance and no order has been passed regarding the FIR case by the High Court while entrusting the investigation to CBI.

3. As is clear from the narration in the order of reference, FIR No.312 dated 02.12.2010, under Sections 302/34/452/120-B IPC, P.S. DLF Phase-II, Gurgaon was registered pertaining to murder of Nargis Juneja wife of Rakesh Juneja. Roshan Lal Kapoor, the father of the deceased made a complaint alleging involvement of Rakesh Juneja in the murder of his daughter. On completion of investigation the local police filed chargesheet against Rakesh Juneja. (“First Report”) on 11.6.2011. The other accused Rosy Bhasin absconded. Rosy Bhasin submitted application before the DGP, Haryana whereupon on 04.10.2011 the DGP transferred the case to Crime Branch, Gurgaon. A Special Investigation Team was constituted which submitted an untraced report under Section 173(8) Cr.P.C. (“Second Report”) on 08.12.2011. The SIT concluded that from the investigations no evidence had come against Rakesh Juneja and Rosy Bhasin. They were found to be innocent. The Ld. Addl. Sessions Judge, Gurgaon vide order dated 23.12.2011 dismissed an application u/s 169 Cr. P.C. for the release of Rakesh Juneja from custody and decided to proceed further with the case. It also rejected the

report of the SIT. Rakesh Juneja filed CRM No.M-3164 of 2012 impugning the aforesaid order. Cr. Revision No.301 of 2012 has been filed by him impugning the order, whereby, charges were framed against him.

4. While hearing CRM No.M-3164 of 2012 a Ld. Single Judge of this Court while noting that the Trial had proceeded in the case and two material and one formal witness had been examined, directed the handing over of the further investigation of the case to the Central Bureau of Investigation as an effort needed to be made to nab the real assailants. The trial before the Trial Court was directed to be stayed. The CBI re-registered the case. After completion of investigation it submitted its final report ("Third Report") having concluded that there was no evidence to link any person with the crime and that no purpose would be served by continuing with the investigation. The CBI filed the Report in the Court of Special Judicial Magistrate, CBI, Panchkula, Haryana. The Ld. SJM, CBI, Panchkula after taking into consideration all the three reports, vide order dated 11.01.2018 accepted the closure report submitted by the CBI. The protest petition filed by the father of the deceased was found to be without merit. The father of the deceased filed a revision petition against that order. While hearing that petition, the Ld. Addl. Sessions Judge/ Special Judge, Panchkula sent the Reference u/s 395 CrPC to this Court. Thereafter, the Ld. Single Judge has referred the case to a larger Bench.

5. The anomalous situation necessitating the reference has arisen in this case primarily on account of the fact that the "Third Report" was submitted before the Special Judicial Magistrate, CBI, Panchkula, Haryana instead of before the Ld. Trial Court where the trial was pending.

6. It is clear from the order of the Ld. Single Judge dated 03.04.2012 that "further investigation" of the case had been entrusted to the Central Bureau of Investigation. Vide the same order dated 03.04.2012 the trial before the Trial Court was directed to be stayed. There was no order for transfer of the pending trial to any other Court including the Special CBI Court. In view thereof the "Third Report" ought to have been submitted before the Trial Court.

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10. The necessary sequitur also is that in the absence of any order or direction for transfer of the case from the Trial Court to any other Court the report of the "further investigation" would be filed before the Trial Court where the Trial is pending.

11. By way of illustration we may refer to certain orders passed by the Hon'ble Supreme where "further investigation" or "fresh investigation" has been directed in cases where chargesheets had been filed by the local police and the cases were pending trial before the Trial Courts.

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15. xx xx In all the cases, the trial was directed to remain stayed till the submission of the report by the CBI. Upon submission of the report the Trial Court was to consider the same as per law.

16. Thus, in a case where FIR has been registered by the local police, upon completion of investigation the challan has been filed and the trial Court has taken cognizable and commenced trial and thereafter the investigation is entrusted to the CBI, in the absence any order to the contrary passed while entrusting the case to the CBI, the CBI shall submit its report to the Trial Court which shall then proceed to consider the same in accordance with law. As observed in Vijay Tyagi's case (supra) the Court would then consider all the reports/ material on record and form its opinion.

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18. While following the aforesaid dictum we observe and reiterate that in cases where an FIR has been registered by the local police and upon completion of investigation the challan has been filed, the trial Court has taken cognizable and commenced trial and thereafter the investigation whether “further investigation” or “fresh investigation” is entrusted to the CBI, it would be a necessary desideratum that while so entrusting the case to the CBI, necessary directions regarding the fate of the investigation already conducted and the report/ reports already filed be also issued.

19. The Reference is answered accordingly.

20. In the light of the aforesaid, we direct that the report of the CBI consequent on the “further investigation” directed vide order dated 03.04.2012 (third report) be presented before the Ld. Additional Sessions Judge at Gurgaon where the trial is pending. The Trial Court would then formulate its opinion after evaluating all the three reports and proceed accordingly.”

5. The present petition is accordingly disposed of in terms of **Court on its motion** (supra).

18.11.2025

ashok

(AMAN CHAUDHARY)
JUDGE

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