

2026:PHHC:054672



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

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CRM M-5260 of 2024

Date of Decision: 08.04.2026

Central Bureau of Investigation

...Petitioner (s)

Vs.

State of Punjab and another

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Prateek Gupta, Advocate for the petitioner.

Mr. Bhanu Pratap Singh, Addl. A.G., Punjab.

Mr. Vishavjeet Rishi, Advocate
for respondent No.2.**N.S.SHEKHAWAT, J. (Oral)**

1. The Central Bureau of Investigation, (hereinafter to be referred as 'the CBI'), has filed the present petition with the prayer to transfer the record of trial arising out of FIR No. 173 dated 03.09.2015 registered under Sections 302 and 34 IPC at P.S. Shimlapuri, Ludhiana, Punjab, which is pending at Ludhiana to the Court of Special Judicial Magistrate, CBI Mohali.

2. Learned counsel for the petitioner has vehemently argued that initially one FIR No. 173 dated 03.09.2015 under Sections 302 and 34 IPC, P.S. Shimlapuri, Ludhiana, Punjab (Annexure P-1) was got registered by Kamallesh Chaudhary by alleging that his elder daughter Inder Rekha was kidnapped by someone and later on the dead body of his daughter was recovered near Barewal Power Grid. In the meantime, the complainant approached this Court by way of CRM-M-38943 of

2015 and prayed for handing over the investigation in case FIR No. 173 dated 03.09.2015 (Annexure P-1) to Central Bureau of Investigation. Vide order dated 22.12.2016, the petition filed by the complainant was allowed and the Central Bureau of Investigation had taken over the investigation and FIR No.RC0512017S0007 dated 01.03.2017 Police Station CBI, SCB, Chandigarh, was ordered to be registered by the CBI.

3. Learned counsel further submits that before the transfer of the FIR to CBI, the local police had already filed a *challan* in the FIR No.173 dated 03.09.2015 (Annexure P-1) and the trial arising out of the said *challan* is still pending in the Court of Additional Sessions Judge, Ludhiana. Learned counsel further submits that after conducting the investigation, the CBI filed a closure report on 31.01.2020 in the court of Special Judicial Magistrate, CBI, Mohali. However, the Special Judicial Magistrate, CBI, declined the said closure report vide order dated 11.02.2022 and sent it back to CBI for conducting further investigation. Again, the CBI filed an “untrace report” on 12.01.2023 in the Court of Special Judicial Magistrate, CBI, SAS Nagar, Mohali. Learned counsel submits that at present, the final report submitted by CBI is pending before the Court of Special Judicial Magistrate, CBI, at SAS Nagar and the original record of *challan* filed by local police may also be transferred to the same Court so that the trial may be held by the Special Court, CBI, at Mohali itself. Learned counsel further submits that in the present case, the CBI has stepped into as the investigating agency and both the final reports have to be considered and tried by the Special Court at Mohali.

4. On the other hand, learned counsel appearing on behalf of State of Punjab has no serious objection to the limited prayer made by the learned counsel appearing on behalf of the petitioner.

5. I have heard learned counsel for the parties and perused the record carefully.

6. The Hon'ble Supreme Court has held in the matter of ***Vinay Tyagi Vs. Irshad Ali @ Deepak and others***, 2013(2) RCR(Criminal) 197 : 2013(2) Recent Apex Judgments (RAJ) 69 as follows:-

“46. We are unable to accord approval to the view taken by the High Court. The judgment in the case of K. Chandrasekhar (supra), firstly does not state any proposition of law. It is a judgment on peculiar facts of that case. Secondly, it has no application to the present case. In that case, the investigation by the police was pending when the investigation was ordered to be transferred to the CBI. There the Court had directed that further investigation had to be continued by the CBI and not the Special Cell of the Delhi Police.

47. In the present case, report in terms of Section 173(2) had already been filed by the Special Cell of the Delhi Police even before the investigation was handed over to CBI to conduct preliminary inquiry. Furthermore, the final investigation on the basis of the preliminary report submitted by the CBI had also not been handed over to CBI at that stage.

48. Once a Report under Section 173(2) of the Code has been filed, it can only be cancelled, proceeded further or case closed by the court of competent jurisdiction and that too in accordance with law. Neither the Police nor a specialised investigating agency has any right to cancel the said Report. Furthermore, in the present case, the High Court had passed no order or direction staying further

investigation by the Delhi Police or proceedings before the court of competent jurisdiction.

49. On the contrary, the court had noticed explicitly in its order that it was a case of supplementary or further investigation and filing of a 'supplementary report'

50. Once the Court has taken this view, there is no question of treating the first report as being withdrawn, cancelled or capable of being excluded from the records by the implication. In fact, except by a specific order of a higher court competent to make said orders, the previous as well as supplementary report shall form part of the record which the trial court is expected to consider for arriving at any appropriate conclusion, in accordance with law. It is also interesting to note that the CBI itself understood the order of the court and conducted only 'further investigation' as is evident from the status report filed by the CBI before the High Court on 28th November, 2007.

51. In our considered view, the trial court has to consider the entire record, including both the Delhi Police Report filed under Section 173(2) of the Code as well as the Closure Report filed by the CBI and the documents filed along with these reports”.

7. In the present case also, the FIR was initially ordered to be registered at Police Station Simlapuri, Ludhiana, and the police had presented a final report under Section 173 Cr.P.C. Ultimately, the trial arising out of FIR No. 173 dated 03.09.2015 (Annexure P-1) is stated to be pending before the Court of Additional Sessions Judge, Ludhiana. On the other hand, the CBI has also presented a final report of investigation before the Special Judicial Magistrate, CBI, SAS Nagar, Mohali. Consequently, keeping in view the law laid down by the Hon'ble Supreme Court in the matter of **Vinay Tyagi** (*supra*), the record of trial

arising out of FIR No. 173 dated 03.09.2015 (Annexure P-1) is ordered to be transferred to the Court of Special Judicial Magistrate, CBI, SAS Nagar, Mohali.

8. Needless to observe that the Special Judicial Magistrate, CBI, SAS Nagar, Mohali, shall follow the mandatory provisions of the Code of Criminal Procedure/BNSS.

9. The petition stands allowed in the above terms.

08.04.2026		(N.S.SHEKHAWAT)
amit rana		JUDGE
	Whether reasoned/speaking	: Yes/No
	Whether reportable	: Yes/No