

112 CWP-PIL-29-2021 (O&M)

**COURT ON ITS OWN MOTION
V/S
STATE OF PUNJAB & OTHERS**

Present:- Mr. R.S. Khosla, Senior Advocate with
Mr. Sarvesh Malik, Advocate (*Amicus Curiae*).

Mr. Arjun Sheoran, DAG, Punjab.
Mr. Saurabh Kapoor, Addl. AG, Punjab.

Mr. Pawan Girdhar, Addl. AG, Haryana.

Mr. Dheeraj Jain, Sr. Panel Counsel with
Mr. Sahil Garg, Advocate for the respondent-UOI.

Mr. Manish Bansal, Public Prosecutor and
Mr. J.S. Toor, Additional Public Prosecutor, U.T. Chandigarh.

Mr. Rajeev Anand, Advocate for respondent-CBI.

Mr. Pankaj Bains, Advocate for the applicant
in CM-78-CWPIL-2022.

Status report by way of affidavit of Shri Raj Kumar Singh (IPS), Inspector General of Police, U.T. Chandigarh has been filed on behalf of respondent No.4.

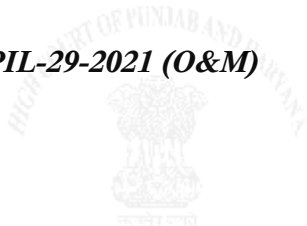
Mr. Toor has pointed out that in view of the earlier directions issued on 21.07.2023 the challan in FIR No.168 dated 31.12.2022 registered under Sections 354, 354-A, 354-B, 342 and 506 IPC was presented on 25.08.2023 and now case is fixed for consideration on charge. It is also pointed out that in FIR No.63 dated 09.06.2022 registered under Section 188, 341, 353 IPC, the cancellation report has been accepted on 01.06.2023 by the concerned Court. It is, thus, apparent that as many as 36 persons no longer have to face the said proceedings. Similarly, it is pointed out that in FIR No.26 dated 16.03.2021 registered under Sections 186, 323, 341, 511 IPC cancellation report had been filed, but the

complainant was not satisfied and re-investigation was done and again a cancellation report had been submitted and notice was issued to the complainant for 30.10.2023 by the Court of Shri Rahul Garg, Addl. CJM, Chandigarh.

Status report filed on behalf of respondent No.4-U.T. Chandigarh alongwith Annexure R-4/1 would go on to show that there are as many as 73 accused in FIR No.74 dated 08.08.2020 registered under Section 188 IPC, whereas in another FIR bearing No.76 dated 06.10.2021 under Sections 188, 186, 353 and 332 IPC there are as many as 500-600 persons who have been arrayed as accused. Similarly, in FIR No.137 dated 07.08.2020 under Section 188 IPC 37 persons have been arrayed as accused. In FIR No.139 dated 10.08.2020 under Section 188 IPC as many as 75 persons are accused. In FIR No.324 dated 24.10.2020 under Section 188 IPC 39 persons are accused.

Status report by way of affidavit of Shri Ajay Singhal, Additional Director General of Police, Crime, Haryana has also been filed. A perusal of the same would go on to show that 8 cases are under investigation and another case has been lodged under Section 174A IPC bearing FIR no.120 dated 08.04.2023, Police Station Sector 31, Faridabad against Pritam Singh, Principal-cum-Chairman of M/s GCA Marketing Pvt. Ltd., who is stated to be an Ex-MLA from Bathinda, Punjab.

It has further been deposed that in FIR No.531 dated 27.12.2021 under Sections 323, 506, 509 IPC lodged at Police Station, Mahendergarh Shri Rao Bahadur Singh, Ex-MLA has been acquitted on 23.08.2023. Similarly, Shri Satinder Rana, Ex-MLA, Rajound, Kaithal had been acquitted by SDJM, Samalkha on 22.09.2023 in case FIR No.216



dated 07.04.2018 registered under Sections 454/380/120-B/206/207/188 IPC, Police Station Samalkha.

We find that at Sr. No.12 in FIR No.141 dated 06.05.2011 under Sections 148/149/307/302 IPC & 25/54/59 of Arms Act registered at Police Station Kalanaur, all prosecution witnesses have been examined and, therefore, we direct that the defence evidence, if any be completed at the earliest and the concerned Trial Court is requested to expedite the proceedings. Similarly, in FIR No.659 dated 29.07.2016 registered under Sections 420, 465, 468, 471 IPC, Police Station Sadar, Jhajjar all prosecution and defence witnesses have been examined and, therefore, we also direct the said Trial Court that proceedings be expedited.

Regarding FIR No.20 dated 18.10.2005 under Section 420, 467, 468, 471, 120-B IPC and 13 (1) (d) of the Prevention of Corruption Act, 1988, Police Station, SVB (now ACB), Hisar, it is pointed out that three challans have been filed regarding recruitment of HCS and other Allied Services for the year 2001 & 2004 on 04.07.2023 and 05.07.2023, respectively and another challan has been filed regarding the recruitment of Assistant Professors. Regarding other 7 cases on account of matters pending before the Apex Court on the issue of voice sampling, proceedings are still pending.

However, we find that in FIR No.288 dated 01.09.2018 registered under Sections 420, 468, 471, 120-B IPC and under Section 13 of Prevention of Corruption Act, Police Station Kherki Daula, Gurugram, the investigation is crawling since the last 5 years. Therefore, we direct that the investigation be completed in the said case at the earliest.

We have already noticed on the last date the fact that the large number of such cases are pending, specially under Section 188 of the IPC read with the Epidemic Diseases Act, 1897 and the Disaster Management Act, 2005 and we have serious apprehensions as to whether these matters should continue clogging the judicial system, in view of the fact that those were extra-ordinary times when the Covid-19 was raging and necessary instructions had been issued for the protection of the citizens of this country. On account of various individual reasons people have been booked under the said provisions. We, accordingly, direct both the States of Punjab & Haryana and U.T. Chandigarh to file a status report indicating to us as to the number of cases of this type pending in the Courts which are clogging the criminal Courts and which were registered during the Covid-19 period i.e. between 15.03.2020 to 28.02.2022, so that further orders can be passed, as Mr. Khosla has suggested that power under Article 226 of the Constitution of India can be invoked to quash the proceedings. We are of the considered opinion that if such an exercise is to be done, it should be done across the board rather than only to benefit certain set of persons whose litigation is being monitored by this Court in the present set of proceedings, on directions by the Apex Court.

Let, status report be filed on behalf of both the States of Punjab & Haryana and U.T. Chandigarh regarding cases registered under Section 188 IPC and other provisions during the period of Covid-19 i.e. between 15.03.2020 to 28.02.2022, on the next date of hearing in terms of the above observations. The State shall also specify that whether any injuries have been caused to a public servant in which of the cases.

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Mr. Raj Kumar Singh, (IPS), Inspector General of Police,
U.T. Chandigarh need not be present on the next date of hearing, since
facts have been noted on behalf of the U.T. Chandigarh.

Adjourned to 09.02.2024.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

November 03, 2023
Naveen