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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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Court on its own motion v. State of Punjab and others

Present: Mr. R.S. Khosla, Senior Advocate with
Mr. Sarvesh Malik, Advocate as Amicus Curiae.

Mr. SPS Tinna, Additional Advocate General, Punjab.

Mr. Ankur Mittal, Additional Advocate General, Haryana.

Mr. Pankaj Jain, Senior Standing Counsel with
Mr. Jaivir Chandail, Advocate for UT, Chandigarh.

Mr. Satya Pal Jain, Additional Solicitor General of India with
Mr. Dheeraj Jain, Senior Counsel for respondent No.3.

Case has been heard through Video Conferencing on account of
COVID-19 Pandemic.

Pursuant to order dated 30.4.2021, affidavit of Arun Pal Singh, IPS, Inspector General of Police, Litigation, Bureau of Investigation, Punjab, Chandigarh has been filed. As per paras 3 and 4 thereof, about 163 cases are pending against MPs/MLAs (sitting or erstwhile) in the State of Punjab. According to Mr. Tinna, this data has been compiled by the Director, Bureau of Investigation, Punjab after obtaining information from the Commissioners of Police and Senior Superintendents of Police of various Districts. Affidavit is taken on record. Registry to pagemark. Mr. Tinna further submits that Mr. Arun Pal Singh, Inspector General of Police is present in view of the directions given by the Hon'ble Supreme Court in *Ashwani Kumar Upadhyay v. Union of India and another, Writ Petition (Civil) No. 699 of 2016*.

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An affidavit has also been filed by Sanjay Kumar, Inspector General of Police, Administration and Law and Order, Haryana, Panchkula.

Para 5 thereof reads as under:-

“That it is submitted that in total 21 cases registered in the State of Haryana (08 against Ex-MLAs of Haryana and 02 against Ex-MLAs of Himachal Pradesh) are under trial and 03 cases registered in the State of Haryana had been transferred to CBI, Chandigarh for investigation. 15 out of 21 criminal cases are pending before Ld. Trial Courts, whereas, 06 cases are pending before Hon'ble Appellate/Revisional courts. A detailed chart of under trial cases is annexed as Annexure R-1.”

According to Mr. Mittal, investigation of three cases has been transferred to the CBI, details whereof are as under:-

- “(i) FIR No. 439 dated 07.06.2011 u/s 302, 201, 323, 34 IPC removed and add 7/13 PC Act, 1988, PC Civil Line, Karnal. (As per the order of Hon'ble Punjab and Haryana High Court dated 26.09.2012 case was transferred to CBI, for investigation).
- (ii) FIR No. 09 dated 19.12.20215 u/s 201/204/409/420/467/468/471/120-B IPC & 13 PC Act, PS SVB, Panchkula. (Case transferred to CBI as per notification of Govt. of India, Ministry of Personnel, Public Grievance and Pension No. 228/62/2015-AVDII dated 23.12.20215 vide RC No. 36 dated 31.12.2015).
- (iii) FIR No. 03 dated 05.05.20216 u/s 409/420/120-B IPC &

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13 PC Act, PS SVB/PKL. (Case transferred to CBI and handed over CBI vide RC No. 63 dated 10.04.20217).”

According to Mr. Mittal, some delay has occurred in collection of information and perusal thereof in view of Covid-19 situation. Mr. Sanjay Kumar, Inspector General of Police, Administration and Law and Order, Haryana is present through Video Conferencing in view of directions issued by the Hon'ble Supreme Court in *Ashwani Kumar Upadhyay's case (supra)*. Affidavit is taken on record. Registry to pagemark.

Status report by way of affidavit of Sanjay Baniwal, IPS, Director General of Police, UT, Chandigarh has been filed. As per the said affidavit, seven cases are pending which are under investigation. No case is pending trial at the moment. According to Mr. Pankaj Jain, Mr. Kuldeep Chahal, Senior Superintendent of Police, UT, Chandigarh is present through Video Conferencing for the assistance of the court. A query has been put to Mr. Chahal about the reasons for delay in completing the investigation in the cases. He submits that investigation has been slightly delayed due to Covid-19 situation and an effort shall be made to conclude the same at the earliest.

Affidavit is taken on record. Registry to pagemark. Mr. Jain shall apprise the court about the progress on the next date of hearing.

Mr. Satya Pal Jain, Additional Solicitor General of India prays for more time to seek information from the Enforcement Directorate and apprise the court.

Central Bureau of Investigation remains unrepresented despite notice. Mr. Rupinder Khosla, learned Amicus Curiae assures the court that he shall inform the CBI counsel of the pending proceedings.

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The High Court has registered the present petition as a *suo motu* case and has been monitoring the progress of cases of MPs/MLAs (sitting or former) pending in the States of Punjab, Haryana and UT, Chandigarh, in light of the directions issued by the Hon'ble Supreme Court in *Ashwani Kumar Upadhyay's case (supra)*, which also says that no adjournment shall be granted except in exceptional circumstances and that too for reasons to be recorded.

Needless to observe that all the courts in the three states shall comply with the directions issued by the Hon'ble Supreme Court in *Ashwani Kumar Upadhyay's case (supra)* in letter and spirit. Registry to examine whether reports from all the District and Sessions Judges in the three States have been received pursuant to order dated 25.2.2021.

In order to await the response of Mr. Satya Pal Jain, matter is adjourned to 27.5.2021.

(RAJAN GUPTA)
JUDGE

May 24, 2021
gbs

(KARAMJIT SINGH)
JUDGE