

(2025) 08 P&H CK 0935

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 2111 Of 2024 (O&M)

Anil Bishwanath Malhotra And Others

APPELLANT

Vs

Union Territory Of Chandigarh And Another

RESPONDENT

Date of Decision : 29-08-2025

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 167, 193, 201, 204, 218, 294, 384, 354, 354D, 506, 509
Prevention Of Corruption Act, 1988 — Section 7, 17A
Code Of Criminal Procedure, 1973 — Section 41A

Citation : (2025) 08 P&H CK 0935

Hon'ble Judges : Sheel Nagu, CJ

Bench : Single Bench

Advocate : R.S.Rai, Vipul Joshi, Piyush Kumar, Puneet Bali, Vipul Joshi, Gagandeep Singh, Piyush Kumar, Manish Bansal, Ankur Bali, Gagandeep Singh Wasu, Ravi Kamal Gupta, Dheeraj Jain, Gaurav Chopra, Seerat Saldi

Final Decision : Dismissed

Judgement

Sheel Nagu, CJ

1. These 2 petitions i.e.CWP-2111 of 2024 and CWP-9125 Of 2024 have facts so intricately intertwined that for the sake of clarity, it is appropriate to reproduce the prayer clause in each of the petitions:

CWP-2111 of 2024 :

" 'Mandamus' or 'Prohibition' or any other such Writ or direction to the present Respondent No. 2, i.e., the Central Bureau of Investigation, restraining it from conducting any 'inquiry' or 'enquiry' or investigation' or 'further investigation', in any manner, whatsoever, into any aspect related to the case FIR No. 62 dated 04.04.2022 (ANNEXURE - P/ 1) previously registered by the present Respondent No. 1, i.e., the Chandigarh Police, at Police Station: Industrial Area, Phase - 1, Chandigarh for the offence, punishable under Sections 354, 354D, 294, 506, 509 and 384 of the Indian Penal Code, 1860.

It is submitted that the aforementioned FIR No. 62 dated 04.04.2022 (ANNEXURE- P/ 1) already stands 'cancelled' vide the Cancellation Report dated 10.07.2022 (ANNEXURE - P/3) prepared by the Chandigarh Police; and, the same already stands duly accepted by the concerned Learned Chief Judicial Magistrate, Chandigarh vide its Order dated 08.08.2022 (ANNEXURE -P/4). Yet, the present Respondent No.2, i.e., the Central Bureau of Investigation is hell-bent upon inquiring' or 'enquiring' or carrying out investigation' or further investigation' into the same subject-matter, without any jurisdiction, whatsoever - under the garb of, inter- alia, CBI No. Enquiry PE0052023A0001 dated 18.01.2023.

It is prayed that the present respondent No. 2, i.e., the Central Bureau of Investigation may kindly be directed to not take any further steps, whatsoever, in pursuance of the said CBI Enquiry No.PE0052023A0001 dated 18.01.2023 or in pursuance of any matter which is directly or indirectly related to the said FIR No.62 dated 04.04.2022 during the pendency of this petition. It is also prayed that necessary directions may kindly be issued to ensure that no coercive steps, whatsoever, are taken against the present petition, during the pendency of this present petition."

CWP-9125 Of 2024 :

" Mandamus or Prohibition or any other such Writ or direction to the present Respondent No. 1, i.e., the Central Bureau of Investigation, restraining it from acting against the Petitioners in any manner, in pursuance of CBI Enquiry No. PE0052023A0001 dated 18.01.2023 and all consequential legal proceedings emanating therefrom including FIR No. RC0052024A0008 registered at P.S. CBI, ACB, Chandigarh for offences punishable U/s 167, 193, 201, 204, 218,120-B IPC & Section 7 of PC Act 1988 (as amended in 2018) and Notice u/s 41A Cr.P.C. dated 19.04.2024 (Annexure P-7), as the same were illegal, impermissible and without jurisdiction, being conducted, inter alia, without taking prior approval u/s 17A of the Prevention of Corruption Act, 1988, from the competent authority and in view of the legal maxim sublato fundamento cadit opus and the dictum of law enunciated by the Hon'ble Apex Court in the case of State of Punjab v. Davinder Pal Singh Bhullar, (2011) 14 SCC 770;

AND

Pass appropriate direction/Orders) to set aside/quash the aforesaid Enquiry No. PE0052023A0001 dated 18.01.2023 and FIR No. RC0052024A0008 registered at P.S. CBI,ACB, Chandigarh for offences punishable U/s 167, 193, 201, 204, 218, 120-B IPC & Section 7 of PC Act 1988 (as amended in 2018) against the Petitioners and Notice u/s 41A Cr.P.C. dated 19.04.2024 (Annexure P-7);

AND

Pass appropriate Order(s) restraining the Respondent No. 1 from conducting any 'enquiry or 'inquiry or 'investigation' or 'further investigation', in any manner,

whatsoever, into any aspect related to the case FIR No. 62 dated 04.04.2022 (Annexure P-1), previously registered by the present Respondent No. 2, i.e., the Chandigarh Police, at P.S. Industrial Area Phase 1, Chandigarh, for offences punishable u/s 354, 354D, 294, 506, 509 and 384 of the Indian Penal Code, 1860;

AND

Pass appropriate Orders to the Respondent No. 1 to not take any further steps or action, in Pursuance of the aforesaid Enquiry No. PE0052023A0001 dated 18.01.2023 or FIR No. RC0052024A0008 or FIR No. 62 dated 04.04.2022, against the Petitioners, during the pendency of the present Petition;

AND

Pass appropriate Orders to the Respondent No. 1 to not take any coercive action against the Petitioners in pursuance of the aforesaid Enquiry No. PE0052023A0001 dated 18.01.2023 or FIR No. RC0052024A0008 or Notice u/s 41A Cr.P.C. dated 19.04.2024 (Annexure P-7) or FIR No. 62 dated 04.04.2022, during the pendency of the present Petition..."

2. It is obvious that CWP-2111-2024 was filed earlier seeking a writ of mandamus or prohibition restraining the CBI to enquire or inquire or investigate in any manner the FIR No. 62 dated for 04.04.2022 alleging offences punishable under section 354, 354D, 294, 506, 509 and 384 of Indian Penal Code, 1860 (for short 'IPC') primarily on the ground that the investigation in the said FIR has culminated into filing of a closure/cancellation report by the police dated 10.07.2022 which has been duly accepted by CJM Chandigarh on 08.08.2022 and therefore, the registration of CBI Enquiry No. PE0052023A0001 dated 18.01.2023 in regard to matters arising out of FIR No. 62 of 2022 be quashed and the CBI be restrained from taking any coercive steps against petitioner.

3. The other petition i.e. CWP-9125-2024 essentially relates to and challenges the proceedings initiated by CBI in PE0052023A0001 dated 18.01.2023 and the consequential FIR No. RC0052024A0008 registered at P.S., CBI, ACB, Chandigarh alleging offences punishable under section 167, 193, 201, 204, 218, 120 B IPC read with section 7 of Prevention of Corruption Act, 1988 (for short 'PC Act') and the notice under section 41A Cr.P.C dated 19.04.2024, primarily on the ground that the enquiry as well as FIR have been registered without seeking prior approval u/s 17A of PC Act. Quashment of the said PE and FIR has also been sought.

4. The factual matrix involved in both these petitions for the sake of clarity and ready reference deserve to be delineated in a tabular illustration chronologically as follows:

DATE

FACTS/ EVENTS

04-04-2022

FIR No. 62 under sections 354, 354D, 294, 506, 509, 384 IPC is registered based on a complaint by Ms. Nagina Bains.

04-04-2022

Accused- petitioner in CWP No. 2111/24 is arrested. 1 Apple iPhone-12 alongwith SIM, seized from the petitioner.

05-04-2022

Investigation in FIR is handed over to Sub Inspector Satyawar on oral directions of SHO Ram Rattan. (petitioners in CWP-9125/24).

08-08-2022

After investigation in FIR No. 62, the police prepared the cancellation report dated 10/07/2022 which was duly accepted by CJM Chandigarh.

19-12-2022

U.T. Chandigarh, DGP found illegal and corrupt activities on the part of UT police personnel and thus requested the CBI to conduct an enquiry.

18-01-2023

PE0052023A0001 registered at CBI, ACB Chandigarh against Kuldeep Chahal, the then SSP - Chandigarh, but not against Satyawar or Ram Rattan.

During the enquiry, CBI found involvement of the petitioners Satyawar and Ram Rattan and therefore in view of the bar contained u/s 17A of PC Act, the CBI sought approval for conducting enquiry/investigation against the said petitioners.

11-04-2024

Section 17-A PC Act approval was granted by the competent authority to enquire and investigate against Satyawar and Ram Rattan.

15-04-2024

FIR RC0052024A0008 is registered at P.S. CBI, ACB, Chandigarh alleging offences punishable under sections 167, 193, 201, 204, 218, 120 B IPC r/w section 7 of PC Act against Satyawar, Ram Rattan and other unknown persons is lodged but not against petitioner. The enquiry/investigation so conducted revealed the following:

1. Ram Rattan and SI Satyawar in conspiracy with others destroyed crucial evidence by wrongly returning iPhone-12 with SIM to accused Anil Malhotra and

replacing the same with different iPhone-7 without SIM, which was then forwarded to FSL, Chandigarh.

2. The original seizure memo dated 04/04/2022 was destroyed and a false seizure memo dated 09/04/2022 was prepared.

5. From the aforesaid factual matrix, it is evident as daylight that FIR no. 62 died its own death by the acceptance of cancellation report on 08.08.2022 by CJM Chandigarh. Therefore, the challenge in CWP-2111-2024 to the said FIR is rendered infructuous.

6. So far as challenge to any further enquiry, investigation or further investigation by the CBI is concerned, the same is the subject matter of challenge in CWP-9125-2024, which is now taken up for consideration infra : -

6.1 In CWP-9125-2024, the challenge is primarily founded upon the ground that enquiry/investigation in PE0052023A0001 cannot proceed in the absence of approval u/s 17A of PC Act against petitioners i.e. Satyawar and Ram Rattan.

6.2 In this regard, the stand of the CBI is that the enquiry/investigation pursuant to PE0052023A0001 was conducted only against Kuldeep Chahal, the then SSP Chandigarh but not against Satyawar or Ram Rattan (petitioners in CWP-9125-2024). It is the further stand of CBI, that as soon as the CBI came to know of involvement of Satyawar and Ram Rattan (petitioners), the CBI sought approval from the competent authority which was granted under section 17A of PC Act on 11.04.2024. Thereafter, the CBI contends that on 15.04.2020, FIR No. RC0052024A0008 was registered against Satyawar and Ram Rattan and some other unknown accused alleging offences punishable under sections 120-B, 167, 193, 201, 204, 218 IPC and section 7 of PC Act.

6.3 In this manner, it is evident that as soon as the CBI came to know of involvement of petitioners-Satyawar and Ram Rattan, the CBI, before proceeding with enquiry/inquiry/investigation against the petitioners, obtained prior approval of the competent authority under section 17-A.

6.4 This clearly shows that the act of the CBI in no manner was unlawful or against any provision of law. The stay orders passed on 01.02.2024 (in CWP-2111-2024) and 24.04.2024 (in CWP-9125-2024) and continued till today stand vacated.

7. Moreso, the nature of allegations in earlier enquiry/investigation/inquiry qua FIR No.62 dated 04.04.2022 are distinct from the nature of allegations against petitioners in CWP-9125-2024. Both ostensibly appear similar, but in actuality the FIR No.62 dated 04.04.2022 is founded upon allegation made by lady complainant against petitioners in CWP-2111-2024, whereas the allegations against petitioners in CWP-9125-2024 arose out of the cognizable offences committed by police personnel (petitioners in CWP-9125-2024) while conducting the investigation in FIR No.62 dated 04.04.2022.

8. The aforesaid discussion makes it amply clear that both these petitions are frivolous to the extent of being vexatious which have not only consumed, rather, wasted the precious time of this court, which could have been utilised in hearing and deciding more pressing matters. Consequently, this court dismisses both these petitions with cost of Rs.25,000/- against in each petition (totalling Rs.50,000/-) to be deposited in favour of Bar Association of High Court of Punjab & Haryana, within 30 days failing which these petitions be listed before appropriate bench for compliance.

9. Registry is directed to communicate this order to the CBI and the jurisdictional trial court.

10. Pending applications, if any, shall stand disposed of accordingly.