
(2003) 11 P&H CK 0018
In the Punjab And Haryana At Chandigarh
Case No : Criminal R. No. 241 of 2003

Ravinder Pal Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 20-11-2003

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 223

Citation : (2004) CriLJ 1322 : (2004) 1 ILR (P&H) 203 : (2004) 1 RCR(Criminal) 127

Hon'ble Judges : Binod Kumar Roy, C.J;N.K. Sodhi, J;G.S. Singavi, J

Bench : Full Bench

Advocate : K.T.S. Tulsi and R.S. Bains and S.S. Brar, for the Appellant; R.S. Cheema and Pawan Girdhar and Charu Tuli and K.S. Dhaliwal, for Randhir Singh Gill and Prem Sagar, Ravinder Hooda, for Surinder Kaur and Gurdip Singh, Vinely Vohra, for Shamsher Singh, M.K. Vashisth and K.S. Ahluwalia for Pritpal Kaur and Ritinder Singh, P.S. Barar, for Pramjit Singh Pammi and Kanwaljit Singh, for P.S. Sodhi, for the Respondent

Final Decision : Dismissed

Judgement

1. As the prayers in these two petitions are same they are being disposed of by this common order.

1.1 In Criminal Misc. No. 22051-M of 2003 the accused Ravinder Pal Singh Sidhu, who was Chairman of the Punjab Public Service Commission, has come up with prayer to direct under inherent powers of this Court joint trial of (i) Sessions Case No. 32/12-7-2002 (arising out of F.I.R. No. 24 dated 30-4-2002 P. S. Vigilance Bureau, Flying Squad-II, Patiala), pending in the Court of Special Judge, Patiala, (ii) Sessions Case No. 7/24-7-2002 (arising out of F.I.R. No. 7 dated 25-3-2002 P. S. Vigilance Bureau, Phase I. Mohali, District Ropar), and (iii) Sessions Case No. 9/6-8-2002 (arising out of the same F.I.R. but different Challans) both pending in the Court of Special Judge, Rup Nagar.

1.2 In the Criminal Revision the petitioner seeks setting aside pf the order dated

16-11-2002 passed by Shri A. K. Kathuria, Special Judge, Rup Nagar rejecting his prayer to conduct joint trial of Sessions Case Nos. 7 and 9.

2. It may be incidentally mentioned that Sessions Case No. 32 pending in the Court of Special Judge, Patiala pertains to case known as "Punjab Public Service Commission Recruitment Scam". In this case there are 9 accused persons-- (I) the Petitioner, (ii) Pritpal Singh, (iii) Professor Jagdish Kalra, (iv) Paramjit Singh Pammi, (v) Professor Gural Singh, (vi) P. S. Sodhi, (vii) Professor Jaspal Singh, (viii) Professor Amarjit Singh Kang, and (ix) Pritpal Kaur, Randhir Singh alias Dheera and Prem Sagar, who figured as accused, subsequently have turned approver.

2.1 The charges in this case are as follows:--

"FIRSTLY;

That you Ravinderpal Singh Sidhu accused in between November, 1996 to March 2002, while working as a Chairman, Punjab Public Service Commission at Patiala and Pritpal Kaur (Proclaimed Offender), co-accused Pritpal Singh Secretary Punjab Public Service Commission and co-accused Paramjit Singh alias Pammi agreed/conspired to do an illegal act i.e. to collect crores and crores of rupees by illegal gratification from the candidates appearing in the Punjab Public Service Commission for the posts of PCS (Executive) and allied, PCS (Executive) by nomination PCS (Judicial), DSPs, Lecturers, Block Development and Panchayat Officers and other Gazetted Class-I posts, as a motive to select them and in pursuance of the said agreement/conspiracy, did the illegal acts i.e. gave them high marks in the interview arbitrarily down grading the other meritorious candidates, got the answer sheets marked from the Examiners of your choice, manipulated high marks, forging the marks in the answer sheets, using the forget marks sheets as genuine for those candidates after accepting the bribe from them and thereby you all the above named accused committed an offence punishable u/s 120B, I.P.C. and within the cognizance of this Court.

SECONDLY;

2. You Ravinderpal Singh Sidhu while working as a Chairman, Punjab Public Service Commission, Patiala during the aforesaid period, demanded and accepted crores and crores of rupees as illegal gratification from the candidates appearing in the Punjab Public Service Commission for the posts of PCS (Executive) and allied, PCS (Executive) by nomination, PCS (Judicial), DSPs, Lecturers, Block Development and Panchayat Officers and other Gazetted Class-I posts, as a motive to select them for those posts and thereby you Ravinderpal Singh Sidhu accused committed an offence punishable u/s 7 read with Section 13(1)(a) of the Prevention of Corruption Act while you Pritpal Singh Secretary co-accused, Paramjit Singh alias Pammi co-accused and Pritpal Kaur (Proclaimed Offender) committed an offence punishable u/s 7 read with Section 13(1)(a) of the Prevention of Corruption Act read with Section 120B, I.P.C. and within my cognizance.

THIRDLY;

3. That you Ravinderpal Singh Sidhu accused, a public servant during the aforesaid period, while working as Chairman In the Punjab Public Service Commission, accepted from P. S. Sodhi (Parshottam Singh Sodhi) co-accused through Paramjit Singh alias Pammi co-accused a sum of Rs. 25 lacs as Illegal gratification as a motive for showing favour to him and for selecting him to PCS (Executive) in the nomination category and thereby you Ravinderpal Singh accused committed an offence punishable u/s 7 of the Prevention of Corruption Act and within my cognizance.

FOURTHLY;

4. That you P. S. Sidhu (Parshottam Singh Sodhi) accused during the abovesaid period, paid a sum of Rs. 25 lacs as illegal gratification to Ravinderpal Singh Sidhu, Chairman Punjab Public Service Commission, a Public servant through Paramjit Singh alias Pammi co-accused to seek favour for selection to PCS (Executive) in nomination category and got yourself selected and thereby you P. S. Sodhi accused and Paramjit Singh alias Pammi accused abetted in the commission of an offence punishable u/s 7 of the Prevention of Corruption Act and thereby you both committed an offence punishable u/s 12 of the Prevention of Corruption Act and within my cognizance..

FIFTHLY;

5. That you Ravinderpal Singh Sidhu accused, a public servant, during the abovesaid period while working as Chairman, Punjab Public Service Commission, and in such capacity entrusted with a sum of Rs. 11,60,000/- committed criminal breach of trust in respect of the abovesaid amount and thereby you Ravinderpal Singh Sidhu accused committed an offence punishable u/s 409, I.P.C. and within my cognizance.

SIXTHLY:

6. You Professor Gurpal Singh in furtherance of your common intention with your co-accused Ravinderpal Singh Sidhu and Pritpal Singh forged/tampered with the documents i.e. marks in the answer sheets of Law Paper/award sheets of Monika Sethi, Amol Gill and Anil Kumar Jindal candidates of PCS (J) with a view to enhance their marks and thereby you Professor Gurpal Singh accused committed an offence punishable u/s 465, I.P.C. while you Ravinderpal Singh Sidhu and Pritpal Singh co-accused committed an offence punishable u/s 465 read with Section 34, I.P.C. and within my cognizance.

SEVENTHLY;

7. That you Professor Jaspal Singh accused in furtherance of your common intention with your co-accused Ravinderpal Singh Sidhu and Pritpal Singh during the abovesaid period, forged/tampered with the documents i.e. marks in the answer books of English paper of Anil Kumar Jindal, a candidate of PCS (J) with a

view to enhance his marks and thereby you Professor Jaspal Singh accused committed an offence punishable u/s 465, I.P.C. while you Ravinderpal Singh Sidhu and Pritpal Singh co-accused committed an offence punishable u/s 465 read with Section 34, I.P.C. and within my cognizance.

EIGHTLY;

8. That you Professor Jagdish Kalra in furtherance of your common intention with your co-accused Ravinderpal Singh Sidhu and Pritpal Singh during the abovesaid period, forged/tampered with the documents i.e. marks in the answer sheet of English paper relating to Amol Gill, a candidate of PCS (J) with a view to enhance her marks and thereby you Professor Jagdish Kalra accused committed an offence punishable u/s 465, I.P.C. while your co-accused Ravinderpal Singh Sidhu and Pritpal Singh co-accused committed an offence punishable u/s 465 read with Section 34, I.P.C. and within my cognizance.

NINTHLY;

9. That you Ravinderpal Singh Sidhu accused and Pritpal Singh accused during the abovesaid period, fraudulently and dishonestly used as genuine the above stated marks in the answer sheets which you both knew at the time you used it to be forged documents and thereby you Ravinderpal Singh Sidhu and Pritpal Singh accused committed offences punishable u/s 471. I.P.C. and within my cognizance.

TENTHLY;

10. That you Professor Gural Singh accused Professor Jagdish Kalra accused, Professor Jaspal Singh and Professor Amarjit Singh Kang accused in furtherance of your common intention with your co-accused Ravinderpal Singh Sidhu and Pritpal Singh gave enhanced marks to Monika Sethi, Amol Gill and Anil Kumar Jindal, thereby you all abetted the commission of an offence punishable u/s 7 of the Prevention of Corruption Act and thereby you Professor Gural Singh, Professor Jaspal Singh, Professor Amarjit Singh Kang and Professor Jagdish Kalra accused committed an offence punishable u/s 12 of the Prevention of Corruption Act while you Ravinderpal Singh Sidhu and Pritpal Singh co-accused committed an offence punishable u/s 12 of the Prevention of Corruption Act read with Section 34, I.P.C. and within my cognizance."

2.2 In this case the witnesses are Randhir Singh alias Dhira, Prem Sagar, Paramjit Singh, Jaspreet Singh, Advocate, Opinder Nath Sharma, District Manager, Punjab, Davinder Kumar Bagga, Superintendent PPSC, Bal Mukand Sharma, Kuljeet Singh, Rachpal Singh, Satwant Singh Johal, Secretary, PPSC, Gurdeep Singh Cheema, Former Advocate-General, Sewak Singh, Under Secretary, PPSC, Harminder Singh, OSD, PPSC, Har Shai Sodhi, Superintendent, PPSC, Amarjit Singh, Manager, P. K. Printing Press, Indl. Area, Chandigarh, Karam Singh, Cashier, PPSC, Mangal Singh, P. K. Printing Press, Indl. Area, Chandigarh, Manjeet Singh, Junior Assistant, PPSC, Jagman Singh, Dev Chand,

Superintendent, PPSC, Sohan Lal Pandey, Superintendent, PPSC, Rajinder Singh Prashad Bedi, Deputy Registrar, Punjab University, Chander Parkash, Under Secretary, DOPT, Government of India, Narinder Kumar Sharma, Superintendent PCS Branch, Personnel Department Civil Sectt., Chandigarh, and Sikandar Singh.

3. Sessions Case No. 7 is a trap case in which the petitioner is the sole accused.

3.1 The charges in this case are as follows:--

"That you being public servant employed as Chairman Punjab Public Service Commission on 24-3-02 in the area of Phase 3-B-II, Mohali demanded and agreed to accept an amount of Rs. 35 lacs out of which Rs. 5 lacs were demanded to be paid in advance from Sh. Bhupjeet Singh son of Bir Balwinder Singh r/o 1073, Sector 39, Chandigarh Inspector Excise at Chandigarh, as gratification other than legal remuneration as motive or reward for doing an official act i.e. getting the name of Bhupjeet Singh recommended for examination to PCS (Executive) and hereby committed an offence u/s 7 of the P. C. Act 1988 and within the cognizance of this Court.

Secondly that you being a public servant employed as Chairman Punjab Public Service Commission on 25-3-02 in the area of Chandigarh accepted an advance amount of Rs. 5 lacs in pursuance to the agreement and demand made by you on 24-3-02 at Mohali out of total agreed/demanded amount of Rs. 35 lacs as gratification other than legal remuneration as motive or reward for doing an official act i.e. getting the name of Bhupjeet Singh recommended for examination to PCS (Executive) and thereby committed an offence u/s 7 of P. C. Act 1988 within the cognizance of this Court.

Thirdly that you being a public servant employed as Chairman Punjab Public Service Commission on the abovesaid time and place while holding that office misused your official status as Chairman Punjab Public Service Commission and took Rs. 5 lacs from Bhupjeet Singh, and thereby taken a pecuniary advantage for yourself and thereby also committed criminal misconduct punishable u/s 13(2) of the P. C. Act 1988 and within the cognizance of this Court."

3.2 The witnesses in this case are Bhupjit Singh, Chander Mohan, Advocate, Ishar Singh, Research Officer, Rural Development and Panchayat Department, Punjab, Chandigarh, Satpal Singh, Superintendent, RDE-Branch, Rural Development and Panchayat Department, Punjab, Chandigarh, Harjinder Singh, Constable, Jagdish Singh, Inspector, Satpal Singh, Inspector, Sukhdev Singh, MHC, Pritpal Singh, Secretary, PPSC, Mukesh Kumar, Senior Assistant, PPSC, S. N. Bansal, SDO, Devi Garh, Raghu Sabharwal, MDTB Hospital, Patiala, Yash Pal Singh, Manager, City Lodge Restaurant, Harpal Singh, Inspector, Zora Singh, DSP and Jaskaran Singh SB/VB/FS-I, Punjab, Chandigarh.

4. Sessions Case No. 9 is known as "Disproportionate Assets Case". In it including, (i) the petitioner there are 9 accused; (ii) Smt. Surinder Kaur, (iii) Paramjit Singh, (iv) Randhir Singh alias Dheera, (v) Prem Sagar, (vi) Pritpal Kaur,

(vii) Ajinder Singh, (viii) Reetinder Singh and (ix) Gurdip Singh. Jagman Singh, who was accused, has subsequently turned approver.

4.1 The charges in this Sessions Trial are as follows:--

"That during the check period commencing from 10-9-1996 to 25-3-2002, you Ravinder Pal Singh Sidhu were working as Chairman of the Punjab Public Service Commission, Patiala and being a public servant on 30th March, 2002, you were found in possession of disproportionate assets worth Rs. 196054631.47 P. In excess of your known sources of income and these were detected on 30-3-2002, which you could not account for and hence committed Criminal misconduct and thereby committed an offence punishable u/s 13(1)(e) of the Prevention of Corruption Act, 1988 read with Section 13(2) of the said Act and within my cognizance.

That during the check period referred to above, you Randhir Singh alias Dheera in Criminal conspiracy with Ravinder Pal Singh Sidhu, Chairman of the Commission obtained Rs. One lac as illegal gratification from Amrit Pal Singh, as advanced, out of Rs. 40/- lacs, which you agreed to obtain for inducing Ravinder Pal Singh Sidhu, Chairman of the Punjab Public Service Commission, Patiala (Public Servant) to show favour to one Gurjeet Singh in his selection as DSP and thereby you committed an offence punishable u/s 9 of the Prevention of Corruption Act, while you Ravinder Pal Singh Sidhu, being a public servant committed an offence punishable u/s 8 of the Prevention of Corruption Act read with Section 120B, I.P.C.

That during the check period referred to above, you Prem Sagar in criminal conspiracy with Ravinder Pal Singh Sidhu, Chairman of the Commission obtained Rs. One lac as illegal gratification from Bakhshish Singh, as advance, out of Rs. 40/- lacs, which you have agreed to obtain for Ravinder Pal Singh, Chairman of the Punjab Public Service Commission, Patiala (Public Servant) to show favour to one Vikramjit Singh in his selection as DSP and thereby you committed an offence punishable u/s 8 of the Prevention of Corruption Act, while you Ravinder Pal Singh Sidhu, being a public set committed an offence punishable u/s 8 of the Prevention of Corruption Act read with Section 120B, I.P.C.

That your Paramjit Singh in conspiracy with Ravinder Pal Singh Sidhu, Chairman of the Commission obtained Illegal gratification from one Amrit Pal Singh of village Lalto Khurd for Inducing Ravinder Pal Singh, Chairman of the Punjab Public Service Commission Patiala to show favour to Gurjeet Singh in his selection as DSP and thereby you committed an offence punishable u/s 8 of the Prevention of Corruption Act, while you Ravinder Pal Singh Sidhu has committed an offence punishable u/s 8 of the Prevention of Corruption Act, read with Section 120B, I.P.C. That you both Gurdip Singh Manchanda and Surinder Kaur Manchanda were transacting in Hawala Process and in criminal conspiracy with Ravinder Pal Singh Sidhu, Chairman of the Commission sending illegal earned money of said Ravinder Pal Singh Sidhu to the foreign countries, through the

Hawala process in order to cancel his disproportionate assets and during the check period, Rs. One crore were detected to have been sent by him to USA through the Hawala process, out of which 50% amount was deposited by you in the account of Reetinder Pal Singh, brother of Ravinder Pal Singh Sidhu, while the remaining 50% was deposited by you for the person account of Ravinder Pal Singh Sidhu at Lasham Burg and thereby you committed an offence punishable u/s 13(1)(e) and Section 13(2) of the Prevention of Corruption Act, 1988 read with Section 120B, I.P.C. which is within my cognizance.

That you all hatched a criminal conspiracy for collecting illegal gratification from the candidates aspirants for getting jobs on higher Gazetted posts to the State Government and were all accumulating the money for Ravinder Pal Singh Sidhu, Chairman of the Commission and were keeping it and disposing it in any manner, either through Hawala process or otherwise and thereby you have committed an offence of criminal conspiracy punishable u/s 120B, I.P.C. and abetted the offence u/s 13(1)(e) and Section 13(2) of the Prevention of Corruption Act and which is within my cognizance.

That you Ravinder Pal Singh Sidhu, while posted as Chairman of the Punjab Public Service Commission, Patiala forged a Will purported to a valuable security allegedly executed by Avtar Singh regarding Masonic Ledge Kasauli and thereby committed an offence punishable u/s 467, I.P.C., which is within my cognizance.

That you Ravinder Pal Singh Sidhu used the aforesaid Will as genuine, which was a forged document and you fully knew that it was a forged document and thereby you committed an offence of forgery u/s 471, I.P.C., which is within my cognizance."

4.2 The witnesses in this case are Bakhshish Singh Mehta, Amrit Pal Singh, Ishar Singh, Jagtar Singh, Sarpanch, Kuldeep Singh, Patwari, Naunihal Singh, Sunder Dass, Damodar Verma, Registry Clerk, Kasauli, Nand Ram Tanwar, Superintendent, Cantonment Board, Gurmej Singh, Gulzar Singh, Inspector, Baldev Singh, XEN/VB/Punjab, Suresh Hari, SO, Audit, VB/Punjab, Gurmukh Singh, DSP/ VB/EOW/Punjab, Jagdish Singh, Inspector, Kusum Victor, Senior Assistant, PPSC, Kamaljit Singh, Bill Clerk, Navkeet Singh, Ranjit Singh, Des Raj, Inspector, Om Parkash, Sr. Assistant, PPSC, Jasbir Singh, Kuldeep Singh Bedi, Jaspal Dua, Bank Manager, Indus Ind. Bank, Ravinder Singh, Junior Manager, Indus Ind. Bank, Harpal Singh, Inspector, Satpal Singh, Inspector, Nirdosh Kaur, ASI, Subhash Chander, Sr. Assistant, Rural Development Panchayat, Bahadur Singh, Superintendent Gr. II, Rural Development Panchayat Depts., Inderjeet Singh Dosanjh, Asst. Vice-President, Indus Ind. Bank, Sector 8, Chandigarh, Ajit Singh Ghai, Establishment Officer, Chief Town Planner, Punjab, Ravi Chandran, Reetish Sharma, Cashier, Indus Ind. Bank, Dharam Singh, Ajit Singh Setia, Asstt. Town Planner, Zora Singh, DSP, Amandeep Singh Bhatti, The cum-EM, Kharar, Manjit Singh, Inspector, Jagat Ram, Sr. Asstt., Markfed, Dhaninder Kumar, Ramesh Chander, Inspector, Ram Asra, Inspector, Ashok Kumar, Ritesh Sharma, Junior Manager, Indus Ind. Bank, Surinderjit Singh, Sr. Asstt., Office of Chief

Town Planner, Harshvardhan, Clerk, Registrar Officer, Death and Birth, Bahadar Chand, Vinod Sharma, Registry Clerk, Derabassi, Harjinder Singh, Record Keeper, Establishment, LDH., Mewa Singh, Manager, Punjab and Sindh Bank, Navtej Singh, Branch Manager, HSFC, Kamaljit Singh, Manager, Punjab and Sindh Bank, Mandeep Singh, Deputy Manager, Bank of Punjab, Tejinder Singh, TTP, Bank of Punjab, Abhinav Awasthi, Asstt. Manager, Indus Ind. Bank, Parupkar Singh Ghuman, Surjit Singh, Brij Mohan Sood, Ashish Arora, Relationship Manager, Birla Sunlight Distribution, Nazir Masih, Tarsem Singh, Tara Singh, Tajinder Singh, Transaction Trainee Process, Bank of Punjab, O. P. Barotia, UDC, Defence State Officer, Rakesh Kumar Phawa, Reader, Sub-Registrar, South, INA, Vikas Sadan, Delhi, Mukesh Kumar Sahini, Anu Joshi, Branch Manager, UTI, Prabhdeep Singh, Branch Manager, HDFC, Mohali, Deepak Trehan, Stock Broker, Sant Singh, UDC, Palwinder Singh, Chief Agricultural Officer, Gyan Chand Nijar, Chief Agriculture Officer, Rajesh Kumar, Stamp Vendor, Gurumukh Singh, Asstt. Record Keeper, Karnal Singh, Stamp Vendor, Jagjit Singh, Head Registry Clerk, Swapan Garg, Advocate, Darshan Singh, Chief Agriculture Officer, Jagdish Kumar Technical Asstt. Chief Agriculture Office and Suresh Kumar Hari, Section Officer.

5. Vide order dated 16-11-2002 the learned Special Judge, Rupnagar has rejected the prayer of the petitioner for a joint trial of Sessions Case Nos. 7 and 9 by observing/holding as follows:--

"(a) Firstly, it is evident from the facts of the case that both the challans are of different nature. One is pertaining to raid of a particular complaint concerning Bhupjit Singh, while the other relates to collecting of disproportionate assets against the known sources of income of the accused. Being so, they are containing different subject matters and different transactions, though committed by the same person and their Joint trial is not possible.

(b) Secondly, in the trap case, the offences were committed on 24-3-2002 and 25-3-2002, in one act of series, while in disproportionate assets case, the property was allegedly accumulated by him at different intervals since from the date of his becoming Chairman of the Commission till he was arrested in the case and hence, these acts of Chairman pertained to different occasions and cannot be said to be an act of one series of same transaction as that of said case detected on 24-3-2002 and 25-3-2002.

(c) Thirdly, except the investigating officers DSP Zora Singh and S.P. Jaskaran Singh all other witnesses of both the cases are not the same. In the said case, only Bhupjit Singh, shadow witness and recovery witnesses are there from public as independent witnesses, while these persons are not the witnesses in other case of disproportionate of assets.

(d) Fourthly, in Raid case, there is only one accused Ravinder Pal Singh while in disproportionate case, there are 11 accused persons besides Ravinder Pal Singh. The other accused have been attached in the case u/s 120B, I.P.C. for helping and conspiring with the main case to collect the money and then to dispose of

the amount in foreign accounts.

(e) Lastly, since Public witnesses and independent witnesses are different in both the cases, the witnesses of Raid case are not subject to cross-examination by the Advocate, who have been engaged by the other connected accused except R.P.S. Sidhu of "Disproportionate Assets Case" and same would be the position vice versa.

7. In view of the circumstances stated above, the consolidation of the two cases, or joint trial of the cases is not at all possible and if they are consolidated, it would create legal complications and would delay the proceedings of the case unnecessarily...."

6. The petitioner assets, inter alia, that his prayer seeking a single trial was wrongly rejected; on March 27, 2002 the Investigating Agency had sought his police remand on the ground that he is to be interrogated qua his assets-movable and immovable, house at Kasauli, lockers, fixed deposits in India and in foreign countries and other places, which are alleged to have been acquired during the period he served as Chairman of the Punjab Public Service Commission for more than 5 1/2 years; the remand orders recorded that the investigation was required to be made in regard to his huge assets disproportionate to his known sources of income; Jagman Singh, the co-accused requested for becoming an approver who made a disclosure statement which form part of the investigation; charge sheets and supplementary charge-sheets were filed in continuation of the earlier ones; during investigation the fact of acquisition of assets disproportionate to his known sources of income came to knowledge on the basis of the recoveries made at the time of the raid and subsequent investigation thus the Special Judge wrongly decided to hold separate trials with regard to 2 challans arising out of the same First Information Report containing allegations of committal of same nature of offences and thereby the separate trials are contrary to the procedure laid down under the Code of Criminal Procedure which would also tantamount to denial of free and fair trial to him inasmuch as they would cause prejudice to his defence which he shall be compelled to disclose.

7. The State, on the other hand, asserts that Sessions Case No. 32 pending in the Court of Special Judge, Patiala pertains to mala fide recruitment of the Punjab Public Service Commission candidates, whereas Sessions Case No. 7 of the Court of Special Judge, Ropar was a trap case and the last one was a case involving the assets acquired by the petitioner in his name and others disproportionate to his known sources of income.

8. Earlier the petitioner's Criminal Misc. Application No. 48036-M of 2002 for clubbing the trials emerging out of FIR No. 7 dated 25-3-2002, Police Station Mohali, District Ropar, FIR No. 119 dated 26-3-2002, Police Station Sector 39, Chandigarh and FIR No. 120 dated 26-3-2002, Police Station Sector 39, Chandigarh was rejected vide order dated 15-11-2002 (as contained in Annexure

P-1 of Cri. Misc. No. 22051 of 2003) passed by the Division Bench to which one of us (G. S. Singhvi, J.) was a party after recording findings that the allegations made in these First Information Reports constitute independent offences having no nexus with each other and that the question of petitioner's plea prejudice on account of independent trial of these three cases is based on a misconceived assumption. Against this order the petitioner went up before the Hon'ble Apex Court in SLP (Criminal) No. 277 of 2002. No stay was granted by the Hon'ble Supreme Court.

Rejection of the Interim Relief of the Petitioner.

8.1 Vide our order dated April 2, 2003 in the Criminal Revision we did not grant him interim relief by observing that in the backdrop aforementioned there will be no Justification to do so.

The Submissions:--

9. The main thrust of the submissions of Mr. K.T.S. Tulsi, learned Senior Counsel, who had appeared on behalf of the petitioner prior to November 18, 2003 (on February 6, March 12, April 2 and July 23), was that in the peculiar facts and circumstances it would be expedient and in the interest of Justice to direct Joint trial of the Sessions Cases, which all arise out of the corruption cases and really part of the same alleged transaction and conspiracy or else the petitioner will be seriously prejudiced. The earlier order dated 16-11-2002 is not binding on us since we are a Larger Bench. Reliance on Banwari Lal Jhunjhunwala and Others Vs. Union of India (UOI) and Another, and Makhan Lal Gore and Others Vs. The State, was placed.

10. In reply, Shri R. S. Cheema, learned Senior Counsel appearing on behalf of the State, contended that the first Sessions trial pertain to wholly mala fide recruitment of the petitioner in his capacity as the Chairman of the Punjab Public Service Commission in which witness Gurmel Singh, Dy. S.P. has already given his evidence after the examination-in-chief of the witness Prem Sagar his cross-examination was rejected and the cross-examination of the witness Randhir Singh alias Dhira is awaited, Sessions Trial No. 7 was a trap case in which the evidence of witness Bhupjeet Singh is over and the evidence of another witness Ishar Singh was going on and In the 3rd Sessions Trial Case No. 9 which relates to acquisition of assets by him and the members of his family disproportionate to known sources of their income after the evidence of Jagman Singh (the approver) the evidence of Abhinav (a Bank official) is going on. The parameters for holding a joint criminal trial by now stand well settled by several judgments of the Hon'ble Supreme Court Including the latest one in Lalu Prasad @ Lalu Prasad Yadav Vs. State through C.B.I. (A.H.D.) Ranchi, Jharkhand, and the facts and circumstances of the three trials do not require in the interest of justice a Joint trial rather it would be in the interest of justice that the trials which have begun be allowed to continue separately. The earlier order is binding on the petitioner and we cannot nullify it. The decisions referred to are not applicable in

the instant case.

11. The learned counsel representing other accused persons also took up a stand that they do not want a Joint trial.

12. We do not want to make our order bulky by stating more facts. We also avoid to make unnecessary observations and/or to record such findings which may prejudice the petitioner during his trials.

Our Findings :--

13. u/s 218, Cr. P.C. there has to be a separate charge for every distinct offence of which any person is accused and that every such charge is required to be tried separately. Under proviso attached thereto a jurisdiction has been vested that if such a person is not likely to be prejudiced, then all or any number of charges framed against such a person may be tried together. Under Sub-section (2) of this Section it has been clarified that the Section shall not affect the operation of the provisions of Sections 219, 220, 221 and 223. u/s 219 if three offences of the same kind are committed within a period of 12 months from the first, then the person may be charged with, and tried at one trial for, any number of them not exceeding three. Section 220, Cr. P.C. deals with providing one trial for more than one offences if, in one series of acts so connected together as to form same transaction, more offences than one are committed by the same person. Section 221, Cr. P.C. deals with a situation where it is doubtful as to what offence has been committed. Section 222, Cr. P.C. deals with when an offence proved is included in offence charged.

14. Section 223 of the Code of Criminal Procedure reads as under :--

"223. The following persons may be charged and tried together, namely :--

(a) persons accused of the same offence committed in the course of the same transaction;

(b) persons accused of an offence and persons accused of abetment of, or attempt to commit, such offence;

(c) persons accused of more than one offence of the same kind, within the meaning of Section 219 committed by them jointly within the period of twelve months;

(d) persons accused of different offences committed in the course of the same transaction;

(e) persons accused of an offence which includes theft, extortion, cheating, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first-named persons, or of abetment of or attempting to commit any such last named offence;

(f) persons accused of offences under Sections 411 and 414 of the Indian Penal Code (45 of 1860), or either of those sections in respect of stolen property the possession of which has been transferred by one offence;

(g) persons accused of any offence under Chapter XII of the Indian Penal Code (45 of 1860), relating to counterfeit coin and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges :

Provided that where a number of persons are charged with separate offences and such persons do not fall within any of the categories specified in this section, the Magistrate may, if such persons be any application in writing, so desire, and if he is satisfied that such persons would not be prejudicially affected thereby, and it is expedient so to do, try all such persons together."

(Underlining by us)

15. Scope of Section 223 aforesaid has been considered in a number of decisions by the Hon"ble Supreme Court. The latest one is Lalu Prasad @ Lalu Prasad Yadav Vs. State through C.B.I. (A.H.D.) Ranchi, Jharkhand, which is a 3 Judges Bench, wherein the Hon"ble Apex Court has observed as follows (paras 10, 12 & 13) :--

".....It is thus be seen that irrespective of the applicability of Clauses (a) to (g), Section 223 gives to the magistrate a discretion to amalgamate cases. The Magistrate has to be satisfied that persons would not be prejudicially affected and that it is expedient to amalgamate cases....." (Paragraph 8)

XXXXXX XXX XXX

".....[I]t is the Trial Court which would have to consider the stand of the other accused persons who have not prayed for joint trial." (Paragraph 10)

XXXXXX XXX XXX

".....The cases are before the special Judges because the main offences are under the Prevention of Corruption Act. The main offences under the Prevention of Corruption Act in each case is In respect of the alleged transaction in that case. As conspiracy Is only an allied offence it cannot be said that the alleged overt acts are in the course of the same transaction. We are bound by this decision. In any case we see no reason to take a different view. As it has already been held that the charge of conspiracy is only an allied charge and the main charges (under the Prevention of Corruption Act) are in respect of separate and distinct acts i.e. monies siphoned out of different treasuries at different time, we fail to see as to how these cases could amalgamated." (Paragraph 11)

XXX XXX XXX XXX

".....[T]ransfer to one Court may prejudicially affect other accused

persons." (Paragraph 12)

16. We have reproduced the various charges framed against the petitioner in three Sessions Trials, which were done after contest by him. Their bare perusal shows that the offences alleged therein were not committed in course of the same transaction or committed jointly within the period of 12 months or embraces other ingredients envisaged in Section 223, Cr. P.C. Justifying our interference.

17. The earlier order dated 15-11-2002 in Criminal Misc. No. 48036-M of 2002 is also binding on the petitioner. True it is that ours is a larger Bench but it does not mean that we can act like an appellate Court. We do not even otherwise find the earlier order to be wrong. We do not find that the petitioner's fundamental right to have a fair trial under the Constitution has been breached. We thus find merit in submissions of Mr. Cheema and accept them.

18. Consequently we dismiss these two Petitions.