

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

CNR No: PHHC012034342025

2026:PHHC:111410



251

CRM-M-71051-2025 (O&M)
Date of decision : 14.08.2026

Rajender**... Petitioner**

Versus

State of Haryana and others**...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Akash Vashisth, Advocate
for the petitioner

Mr. Neeraj Poswal, AAG, Haryana

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short "BNSS"*) seeking issuance of directions for conducting re-investigation in case arising out of FIR No.407 dated 11.06.2023 registered under Sections 302, 323, 34 of IPC and Section 27 of Arms Act (Section 201 of IPC added later on) at Police Station Urban Estate Hisar, District Hisar by transferring it to Central Bureau of Investigation (CBI), Criminal Investigation Department (CID) or any other independent agency.

2. Brief facts relevant for the purpose of this petition are that the aforementioned FIR was registered on the basis of a statement recorded by the present petitioner, alleging therein that his daughter Suman had been

married to Rakesh Kumar Sharma about 16 years prior to the occurrence and three children were born out of the said wedlock. On 10.06.2023, Suman telephonically informed the complainant that her husband Rakesh Kumar Sharma, along with his relatives Vijay Sharma, Asha and Maya Devi, had been harassing and assaulting her and had also threatened to kill her with his licensed weapon. Upon receiving the said information, the complainant deputed his two sons, namely Manjeet and Jitesh, on 11.06.2023 to the matrimonial home of Suman situated at House No. 426-B, Krishna Nagar, Hisar, so that they could counsel the accused persons and resolve the dispute. It is alleged that when Manjeet and Jitesh reached there, accused Rakesh Kumar Sharma fired multiple gunshots from his licensed firearm at Suman as well as Manjeet and Jitesh, resulting in the death of all three at the spot.

3. After registration of FIR, investigation proceedings were initiated. CCTV footage of the camera installed at the place of occurrence was procured which revealed the accused Rakesh Kumar firing shots upon the victims. He was arrested on 15.06.2023. He suffered disclosure statement admitting his involvement in the crime and got recovered his licenced pistol .32 bore, 03 magazines, 30 cartridges, arms licence and his cellphone. Subsequently, some other recoveries were also effected. Other persons named in the FIR i.e. Bijender alias Vijay Sharma, brother-in-law of accused Rakesh, Asha @ Shakshi, sister and Maya Devi, mother were not found to be involved in the occurrence. After completion of necessary investigation, challan was presented before the jurisdictional Magistrate.

4. By way of filing the present petition, the petitioner is seeking re-investigation of the case on the ground that the investigating agency had prematurely exonerated the other named accused.

5. It is argued by learned counsel for the petitioner that the investigation conducted by the local police is wholly defective, unfair and incomplete, thereby warranting re-investigation by an independent agency. It is argued that although the FSL report categorically established that the offence had been committed by using two different firearms, the investigating agency recovered only the licensed pistol of accused Rakesh Kumar Sharma and made no sincere effort to trace the second weapon or to identify the person who had used the second weapon. The exoneration of Vijay Sharma, Asha and Maya Devi, was arbitrary and unsupported by any cogent material. It is further argued that the learned trial Court itself found serious deficiencies in the investigation and, therefore, directed further investigation by a senior officer of the rank of DSP besides recommending departmental action against the Investigating Officer. Even thereafter, according to the petitioner, the supplementary challan merely added Sections 201 IPC and 25 of the Arms Act against the main accused without making any meaningful attempt to identify the second weapon or its user.

6. It is further argued by learned counsel for the petitioner that the investigating agency failed to send the CCTV DVR for forensic examination until compelled by an order of the trial Court. It is also submitted that the conduct of one Rohtash, as reflected in the CCTV footage, coupled with the

calm behaviour of persons present at the scene immediately after the occurrence, indicates the possibility of a larger conspiracy, which has not been investigated at all. It is, thus, prayed that the investigation be transferred to the CBI, CID or any other independent agency headed by an IPS officer, or alternatively, an SIT be constituted to carry out a fresh and impartial investigation.

7. *Per contra*, learned State counsel, on the basis of the status report filed by the Deputy Superintendent of Police, Hisar, submits that the investigation has been conducted fairly, thoroughly and strictly in accordance with law. It is argued that immediately after registration of the FIR, the investigating agency collected all material evidence, including CCTV footage, forensic exhibits, statements of eyewitnesses under Sections 161 and 164 Cr.P.C., and scientific evidence. The CCTV footage clearly depicts the deceased sons of the petitioner arriving at the house of accused Rakesh Kumar and he opening fire upon them. The CFSL report also concluded that the crime cartridges and bullets had been fired from one and the same firearm, though not from the licensed pistol recovered from the accused. Consequently, Sections 201 IPC and 25 of the Arms Act were added against the accused on the allegation that he had concealed the actual weapon used in the offence. Despite extensive efforts, the country-made firearm could not be recovered. It is argued that no incriminating material surfaced against the other family members during investigation, and therefore, they were rightly found innocent. The investigation stands completed, supplementary challan has already been presented, charges have been framed and the trial is

presently in progress. It is, therefore, argued that no ground is made out for ordering re-investigation or transfer of investigation to any other agency, particularly when all issues sought to be raised by the petitioner can appropriately be examined by the learned trial Court during the course of evidence. Hence, it is urged that the petition is liable to be dismissed.

8. This Court has heard the rival submissions made by learned counsel for the parties at considerable length.

9. At the outset, this Court would like to consider the scope of interference by this Court in exercise of powers under Section 528 of the BNSS (*which corresponds to Section 482 of Cr.P.C.*). In ***State of Punjab v. Central Bureau of Investigation: 2011 (4) RCR (Criminal) 152***, it was held by Hon'ble Supreme Court that the High Court, in exercise of inherent powers under Section 482 of Cr.P.C. can transfer the case at any stage for fresh investigation or re-investigation, even after chargesheet was submitted in the Court. Reference can also be made to ***Vinay Tyagi v. Irshad Ali @ Deepak and others, 2013 (5) SCC 762***, wherein the Hon'ble Supreme Court had observed that the cases where direction to conduct a de novo investigation can be issued is few and far between. Such direction is to be based upon a fundamental principle of our criminal jurisprudence which is that it is the right of a suspect or an accused to have a just and fair investigation and trial. Where the investigation *ex-facie* is unfair, tainted, *mala fide* and smacks foul play, the Courts would set aside such investigation and direct fresh or de novo investigation and, if necessary, even by another independent investigating agency. This power is of wide plenitude and has to be exercised sparingly.

The principle of rarest of rare cases would squarely apply to such cases. It was observed that unless the unfairness of the investigation is such that it pricks the judicial conscience of the Court, the Court should be reluctant to interfere in such matters to the extent of quashing an investigation and directing a fresh investigation. Reliance can further be placed upon ***Vishal Thakur vs. Union of India : AIR 2024 Supreme Court 414***, wherein it was observed by Hon'ble Supreme Court that powers of ordering re-investigation or de novo investigation must not be exercised by the Court in the absence of cogent justification indicative of a likely failure of justice in the absence of exercise of power to transfer the investigation. The petitioner must place on record strong evidence indicating that the investigating agency has portrayed inadequacy in the investigation or prima facie appears to be biased.

10. Reference is further made to ***Anant Thanur Karmuse v. State of Maharashtra: 2023 (5) SCC 802***, wherein Hon'ble Supreme Court had observed that constitutional Courts may order further investigation, re-investigation or de-novo investigation, even if the chargesheet is filed and the charges are framed. In ***Dharam Pal v. State of Haryana and Ors., (2016) 4 SCC 160***, it was observed that the power to order fresh, de novo or re-investigation, being vested with constitutional Courts, the commencement of trial and examination of some witnesses cannot be an absolute impediment for exercising the said constitutional power, which is meant to ensure a fair and just investigation. If a grave suspicion arises with regard to the investigation, a constitutional Court should not close its hands and accept the proposition that as the trial has commenced, the matter is beyond it. To do the complete

justice and furtherance of fair investigation and fair trial, the constitutional Courts may order further investigation/re-investigation/de novo investigation even if the chargesheet is filed and charges are framed, otherwise, it would lead to travesty of justice.

11. In view of the above, it is evident that a constitutional Court can direct CBI to investigate into a case, even after the chargesheet has been filed, charges have been framed or some evidence before the trial Court has been recorded. However, simultaneously, it is also well established that such power can be exercised in exceptional circumstances when after examining the allegations in the complaint, the Court reaches a conclusion that the complainant could make out a prima facie case with regard to relief sought by him and only when it is satisfied that the investigation has not proceeded in a proper direction or had been conducted in a biased manner. Reference in this context can be made to some judicial pronouncements of Hon'ble Supreme Court cited as *CBI v. Rajesh Gandhi: 1997 Cri LJ 63*, wherein it was observed that no one can insist that an offence be investigated by a particular agency; *West Bengal v. Committee for Protection of Democratic Rights, West Bengal, reported in 2010) 3 SCC 571*, wherein it was observed that although no inflexible guidelines can be laid down to decide whether or not powers for issuing directions to conduct investigation by CBI should be exercised or not but such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and

instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations; ***K.V. Rajendran v. Superintendent of Police, CBCID South Zone, Chennai, (2013) 12 SCC 480***, wherein it was observed that the power of transferring investigation from State investigating agency to any other independent investigating agency like CBI must be exercised in rare and exceptional cases where the Court finds it necessary in order to do justice between the parties and to instil confidence in the public mind, or where investigation by the State police lacks credibility and it is necessary for having "a fair, honest and complete investigation" and particularly, when it is imperative to retain public confidence in the impartial working of the State agencies; ***Himanshu Kumar and others vs. State of Chattisgarh: 2022 SCC Online 884***, wherein Hon'ble Supreme Court held that if a citizen, who is a de facto complainant in a criminal case alleging commission of cognizable offence affecting violation of his legal or fundamental rights against high Government officials or influential persons, prays before a Court for a direction of investigation of the said alleged offence by the CBI, such prayer should not be granted on mere asking.

12. Now coming to the facts of the present case, this Court finds that the principal grievance of the petitioner is not merely directed against the

conclusion arrived at by the investigating agency but against the manner in which certain crucial facets of the investigation have remained unexplored despite the availability of scientific evidence. The question, therefore, is whether the facts of the present case warrant transfer of investigation to the Central Bureau of Investigation or any other independent agency and whether the ends of justice would be adequately served by directing further investigation/re-investigation through an independent Special Investigation Team or the petition deserves outright dismissal?

13. As already discussed, the law is well settled that investigation cannot be transferred to the CBI merely because a party entertains doubts regarding the fairness of the investigation or seeks investigation by a particular agency. Such extraordinary power is required to be exercised sparingly and only in exceptional circumstances where the Court is satisfied that the investigation is demonstrably unfair, mala fide, actuated by extraneous considerations or where the State machinery has failed to inspire confidence. No such exceptional circumstance is borne out from the record of the present case so as to warrant transfer of investigation to the CBI. However, the matter does not rest there. The record reveals that the initial investigation was found deficient by the learned trial Court itself, which directed further investigation by an officer not below the rank of Deputy Superintendent of Police. Pursuant thereto, further investigation was indeed conducted and supplementary challan was presented. Nevertheless, even after such further investigation, certain significant aspects continue to remain unanswered.

14. One of the most disturbing circumstances emerging from the record is the consistent forensic opinion rendered first by the Forensic Science Laboratory, Madhuban and thereafter reaffirmed by the Central Forensic Science Laboratory. Both the reports indicate that the crime cartridge cases and bullets were not fired from the licensed .32 bore pistol recovered from accused Rakesh Kumar Sharma. Instead of merely creating a conflict in the prosecution evidence, the said scientific opinion raises a fundamental question regarding the actual firearm used in the commission of the offence. It is true that the investigating agency sought to explain the said circumstance by adding Section 201 IPC and Section 25 of the Arms Act on the allegation that the accused had concealed the actual weapon of offence. However, beyond making such allegation, no meaningful investigation appears to have been carried out to ascertain the source of the actual firearm, the circumstances in which it was procured, its subsequent disappearance, the identity of the person who handled or used the said firearm or the chain of events leading to its concealment. Despite further investigation by senior officers, the actual weapon remains untraced.

15. Equally significant is the fact that the investigating agency proceeded on the assumption that accused Rakesh Kumar Sharma alone had committed the entire occurrence. However, this Court has watched the CCTV footage of the occurrence, which shows that apart from the accused Rakesh Kumar, some other persons including his mother were also present at the place of occurrence during relevant time. The investigation does not disclose any objective analysis excluding the possibility of involvement of another

assailant in the light of the evidence. Though the forensic reports may not conclusively establish that two different persons had fired, they undoubtedly introduce a circumstance which required a deeper and more comprehensive investigation than what presently appears to have been undertaken. The possibility of the recovered firearm not being the actual weapon used in the offence and the consequent implications thereof have not been satisfactorily addressed.

16. Another aspect which cannot be overlooked is that the petitioner had repeatedly raised grievances regarding the scientific evidence. The learned trial Court itself considered those grievances serious enough to direct further investigation by a senior officer. Even thereafter, the investigation substantially culminated in filing a supplementary challan without satisfactorily resolving the core issue arising from the ballistic reports. The record further reveals that the CCTV DVR, though seized during investigation, was not immediately subjected to forensic examination and came to be sent for expert analysis only pursuant to judicial directions issued by the learned trial Court. Though the forensic examination has since been carried out, the sequence of events demonstrates that certain important investigative steps were undertaken only after intervention by the Court, which lends credence to the petitioner's grievance that the investigation had not proceeded with the degree of diligence expected in a case involving triple homicide.

17. Similarly, although the investigating agency ultimately found the other persons named in the FIR innocent, the record does not reveal any

detailed investigation specifically undertaken to rule out their involvement after the forensic reports indicated that the recovered licensed weapon was not the actual firearm used in the crime. Whether such persons were indeed uninvolved is a matter which requires a thorough and objective investigation rather than mere reiteration of the earlier conclusion. This Court is conscious that none of the aforesaid circumstances, taken individually, may justify transfer of investigation to the Central Bureau of Investigation. However, at the same time, their cumulative effect cannot be ignored. The unanswered questions relating to the actual firearm used in the offence, the failure to recover the said weapon despite further investigation, the absence of any satisfactory explanation regarding its concealment, the lack of a comprehensive investigation into the possibility of involvement of any other person and the necessity of repeated judicial intervention during investigation collectively create a genuine apprehension that the investigation has not travelled in all the necessary directions.

18. The purpose of directing further investigation is not to cast any aspersion upon the investigating agency nor to hold that the investigation already conducted is dishonest or mala fide. The object is only to ensure that every relevant circumstance having a bearing on the commission of a heinous offence involving three deaths is investigated in a comprehensive, objective and scientific manner so that the truth is brought before the Court. Accordingly, while this Court does not find the present case to be one warranting transfer of investigation to the Central Bureau of Investigation, it is satisfied that the interest of justice would be best served by directing further

investigation by a Special Investigation Team headed by a senior police officer not below the rank of Inspector General of Police, who shall be unconnected with the earlier investigation.

19. The Special Investigation Team shall, inter alia, examine the implications of the ballistic reports, undertake all necessary steps for tracing the actual firearm used in the commission of the offence, investigate the circumstances relating to its concealment, examine whether the scientific and other evidence necessitates investigation regarding involvement of any other person, analyse the electronic and forensic evidence in its entirety and take all such further steps as may be warranted in accordance with law.

20. The SIT shall complete the further investigation as expeditiously as possible, preferably within a period of four months from the date of receipt of a certified copy of this order and shall thereafter submit its report before the competent Court in accordance with law.

21. It is clarified that this Court has expressed no opinion on the culpability of any person and all issues shall remain open to be considered on the basis of the material collected during such further investigation.

22. With the above directions, the petition stands disposed of.

14.08.2026
Wassem R. Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No