



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

159

CRM-M-25229-2025

Date of decision: May 19<sup>th</sup>, 2025

Avinash Kumar

.....Petitioner

Versus

State of Punjab and another

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present: Mr. Abhimanyu Singh, Advocate  
for the petitioner.

**MANJARI NEHRU KAUL, J.**

The petitioner has approached this Court assailing the legality and propriety of the order dated 30.04.2022 (Annexure P-8) passed by the learned trial Court, whereby the case has been remitted to the learned Special Court, Mohali, at a stage when prosecution evidence was already underway.

2. The primary contention of the learned counsel for the petitioner is that the trial Court committed a manifest error in allowing the application moved by the prosecution seeking transfer of the case, particularly when an identical application had been previously dismissed by the same Court vide order dated 26.09.2019.

3. It has been submitted that, as reflected in Annexure P-4, the final report/challan dated 19.05.2011 was initially filed before the Special Court, Mohali. However, in the absence of any any allegations against a public servant or invocation of any provision under The Prevention of Corruption Act (hereinafter referred to as 'The P.C. Act'), the challan was returned with the direction to present it before the

Magistrate having competent jurisdiction. Learned counsel, therefore, argued that the subsequent order remitting the matter back to the Special Court, despite no change in the nature of allegations against the petitioner, is without jurisdiction and liable to be set aside.

4. I have heard learned counsel for the petitioner and perused the relevant material on record.

5. At the heart of the challenge laid by the petitioner lies the interpretation and application of Section 4 of The P.C. Act. The said provision reads as follows:

*“4. Cases triable by special Judges.-(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), or in any other law for the time being in force, the offences specified in sub-section (1) of section 3 shall be tried by special Judges only.*

*(2) Every offence specified in sub-section (1) of section 3 shall be tried by the special Judge for the area within which it was committed, or, as the case may be, by the special Judge appointed for the case, or where there are more special Judges than one for such area, by such one of them as may be specified in this behalf by the Central Government.*

*(3) When trying any case, a special Judge may also try any offence, other than an offence specified in section 3, with which the accused may, under the Code of Criminal Procedure, 1973 (2 of 1974), be charged at the same trial.*

*[(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the trial of an offence shall be held, as far as practicable, on day-to-day basis and an endeavour shall be made to ensure that the said trial is concluded within a period of two years:*

*Provided that where the trial is not concluded within the said period, the special Judge shall record the reasons for not having done so:*

*Provided further that the said period may be extended by*

*such further period, for reasons to be recorded in writing but not exceeding six months at a time; so, however, that the said period together with such extended period shall not exceed ordinarily four years in aggregate.]”*

6. A plain reading of Section 4 (3) of The P.C. Act makes it evident that a Special Judge is competent to try not only offences under The P.C. Act but also other offences with which the accused may be charged in the same trial. Thus, the jurisdiction of the Special Court is not restricted solely to offences under The P.C. Act.

7. In the present case, it is not in dispute that while the petitioner has not been charged under any provision of The P.C. Act, the charges against him arise from the same FIR as that against co-accused Sachin Kumar, who is being tried for offences under The P.C. Act. Both challans pertain to a common transaction and share a factual nexus.

8. To allow bifurcation of trials arising from the same FIR- one before the Magistrate and the other before the Special Court- would not only be contrary to the principle of joint trial enshrined under Section 223 of the Cr.P.C./246 of the BNSS but would also risk rendering inconsistent verdicts apart from causing unnecessary duplication of judicial effort and delay in the adjudicatory process.

9. The argument that an earlier application seeking similar relief had been dismissed does not advance the case of the petitioner either. Procedural decisions are not sacrosanct and can be revisited where the interest of justice so demand, especially in light of the overarching objective of coordinated and expeditious adjudication.

10. In view of the foregoing discussion and considering the express provisions of Section 4 of The P.C. Act, this Court finds no

perversity or illegality in the impugned order dated 30.04.2022 passed by the learned trial Court. The order is well within the jurisdictional competence of the learned trial Court.

11. Accordingly, the instant petition stands dismissed.

**May 19<sup>th</sup>, 2025**

*Puneet*

**(MANJARI NEHRU KAUL)  
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No