

2025:PHHC:083400



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

**CRM M-15095-2019 (O&M)  
Date of Decision:09.04.2025**

Anil Kumar ...Petitioner  
Versus  
State of Haryana and others ... Respondents

**CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT**

Present : Mr. Sunil Kumar Pandey, Advocate  
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

Mr. Dhruv Sheoran, Advocate for  
Mr. Manjeet Singh, Advocate  
for the respondents No. 3 to 6.

Mr. R.A. Sheoran, Advocate  
for respondents No. 7 and 8.

**N.S.SHEKHAWAT, J.**

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash the order dated 25.02.2019 (Annexure P-8) passed by the Court of Additional Sessions Judge, Bhiwani, whereby, the application under Section 173 Cr.P.C. (8) filed by the present petitioner/applicant was ordered to be dismissed. It has also been prayed that the investigation in the present case may be handed over to some independent investigating agency.

2. Learned counsel for the petitioner vehemently argued that one FIR No. 476 dated 23.07.2012 under Sections 420, 406, 467, 468, 471 and 120-B IPC and Section 13-A of P.C. Act, Police Station City Bhiwani (Annexure P-1) was registered against the private respondents on the basis of the complaint moved by Poonam Sangwan, Advocate. Learned counsel further submitted that the present case pertains to embezzlement of public money by government servants and the petitioner is also the resident of same ward, where the development works were to be carried out and the government funds embezzled by the accused in the present case. Still further, it is apparent from the record that certain dead persons were shown alive in the records of the Municipal Committee and the Municipal Councilor and other government servants had taken their pension by putting their thumb impressions/signatures by showing the dead persons as alive. Even, the FSL report dated 06.07.2015 was received from FSL, Madhuban, which conclusively proved that the accused had fraudulently made entries in the APR in their own handwriting. Even, the petitioner approached this Court seeking further investigation in the matter as his prayer was already declined by the trial Court. After hearing him, this Court in the order dated 20.11.2018 (Annexure P-6) made the following observations:-

*“The petitioner argued that police has not investigated the case fairly and properly and the investigation is defective and no evidence has been collected against wife and mother of Satender Mor accused. If it is the*

*case that no evidence has been collected against wife and mother of accused Satender Mor, then there being no evidence against them to connect with the crime, even no cognizance can be taken under Section 190/193 Cr.P.C. against wife and mother of accused Satinder Mor. At the most, it is a case of defective investigation, for which the relief can be sought by filing application before the trial Court regarding further investigation and it is for the trial Court to see the locus standi of the present petitioner in the case.*

*In view of the above discussion, I find that the impugned order dated 16.05.2018 passed by learned Addl. Sessions Judge, Bhiwani, is correct, as per law and does not require any interference from this Court.*

*Therefore, finding no merit in the present petition, the same is dismissed.*

*Since the main case is decided, the pending misc. applications, if any, also stands disposed of. ”*

3. Learned counsel further submitted that after the order dated 20.11.2018 (Annexure P-6), the petitioner moved an application for further investigation before the trial Court, which was wrongly declined. Learned counsel further submitted that it has been held by the Hon'ble Supreme Court in various judgments that a criminal offence is a crime against the society and the Investigating Agency was under a legal obligation to conduct the investigation fairly and to bring the culprit to book. Since, there were defects in the investigation, the trial Court ought to have marked further investigation in the present case. However, the prayer was wrongly declined.

4. On the other hand, learned State counsel assisted by the learned counsel for the private respondents vehemently argued that in the present case, the present petitioner is neither the complainant of the case nor had any concern with the facts of the case. Thus, he had no *locus standi* to question the investigation conducted by the police nor he could move an application before the trial Court. Even, the trial has substantially progressed before the trial Court and at this stage, the petition for further investigation was not maintainable. Still further, learned counsel for the private respondents submitted that the petition has been filed only with a view to blackmail the private respondents.

5. I have heard learned counsel for the parties and perused the record.

6. The scope of powers under Section 173(8) of Cr.P.C. has been elaborated by the Hon'ble Apex Court in the matter of ***Vinubhai Haribhai Malaviya and others Vs. State of Gujarat and another; reported as (2019) 17 SCC 1*** and the Hon'ble Supreme Court held as follows:-

*“There is no good reason given by the Court in these decisions as to why a Magistrate’s powers to order further investigation would suddenly cease upon process being issued, and an accused appearing before the Magistrate, while concomitantly, the power of the police to further investigate the offence continues right till the stage the trial commences. Such a view would not accord with the earlier judgments of this Court, in particular,*

*Sakiri, Samaj Parivartan Samudaya, Vinay Tyagi, and Hardeep Singh; Hardeep Singh having clearly held that a criminal trial does not begin after cognizance is taken, but only after charges are framed. What is not given any importance at all in the recent judgments of this Court is Article 21 of the Constitution and the fact that the Article demands no less than a fair and just investigation. To say that a fair and just investigation would lead to the conclusion that the police retain the power, subject, of course, to the Magistrate's nod under Section 173(8) to further investigate an offence till charges are framed, but that the supervisory jurisdiction of the Magistrate suddenly ceases mid-way through the pre-trial proceedings, would amount to a travesty of justice, as certain cases may cry out for further investigation so that an innocent person is not wrongly arraigned as an accused or that a prima facie guilty person is not so left out. There is no warrant for such a narrow and restrictive view of the powers of the Magistrate, particularly when such powers are traceable to Section 156(3) read with Section 156(1), Section 2(h), and Section 173(8) of the CrPC, as has been noticed hereinabove, and would be available at all stages of the progress of a criminal case before the trial actually commences. It would also be in the interest of justice that this power be exercised suo motu by the Magistrate himself, depending on the facts of each case. Whether further investigation should or should not be ordered is within the discretion of the learned Magistrate who will exercise such discretion on the facts of each case and in accordance with law. If, for example, fresh facts come to light which would lead to inculcating or exculpating*

*certain persons, arriving at the truth and doing substantial justice in a criminal case are more important than avoiding further delay being caused in concluding the criminal proceeding, as was held in Hasanbhai Valibhai Qureshi (supra). Therefore, to the extent that the judgments in Amrutbhai Patel (supra), Athul Rao (supra) Shambubhai and Bikash Ranjan Rout (supra) have held to the contrary, they stand overruled. Needless to add, **Randhir Singh Rana v. State (Delhi Administration) (1997) 1 SCC 361 and Reeta Nag v. State of West Bengal and Ors. (2009) 9 SCC 129** also stand overruled.”*

7. In a recent decision, the Hon'ble Apex Court in **K. Vadivel Vs. K.Shanthi and others., Neutral Citation No. 2024 INSC 746**, again discussed the powers of the Court under Section 178(8) Cr.P.C. and the relevant extract of the said judgment is reproduced below:-

*“33. However, the further investigation cannot be permitted to do a fishing and roving enquiry when the police had already filed a charge-sheet and the very applicant for further investigation, in this case respondent no. 1, has not whispered about anything new in her evidence as is now sought to be averred in the application. There must be some reasonable basis which should trigger the application for further investigation so that the court is able to arrive at a satisfaction that ends of justice require the ordering/permitting of further investigation. In **Hasanbhai Valibhai Qureshi vs. State of Gujarat & Ors., (2004) 5 SCC 347**, this Court held as under:-*

*“13. In Ram Lal Narang v. State (Delhi Admn.) [1979] 2 SCC 322] it was observed by this Court that further investigation is not altogether ruled out merely because cognisance has been taken by the court. When defective investigation comes to light during course of trial, it may be cured by further investigation, if circumstances so permitted. It would ordinarily be desirable and all the more so in this case, that the police should inform the court and seek formal permission to make further investigation when fresh facts come to light instead of being silent over the matter keeping in view only the need for an early trial since an effective trial for real or actual offences found during course of proper investigation is as much relevant, desirable and necessary as an expeditious disposal of the matter by the courts. In view of the aforesaid position in law, if there is necessity for further investigation, the same can certainly be done as prescribed by law. The mere fact that there may be further delay in concluding the trial should not stand in the way of further investigation if that would help the court in arriving at the truth and do real and substantial as well as effective justice. We make it clear that we have not expressed any final opinion on the merits of the case.”*

*34. In Vinay Tyagi vs. Irshad Ali alias Deepak & Ors., (2013) 5 SCC 762, this Court dealing with the aspect of the power of Magistrate to direct further investigation had the following to say:*

*“41. ....The power of the Magistrate to direct “further investigation” is a significant power which has to be exercised sparingly, in exceptional cases and to achieve the ends of justice. To provide fair, proper and*

*unquestionable investigation is the obligation of the investigating agency and the court in its supervisory capacity is required to ensure the same. Further investigation conducted under the orders of the court, including that of the Magistrate or by the police of its own accord and, for valid reasons, would lead to the filing of a supplementary report. Such supplementary report shall be dealt with as part of the primary report. This is clear from the fact that the provisions of Sections 173(3) to 173(6) would be applicable to such reports in terms of Section 173(8) of the Code.”*

*35. It is essential to note that this Court emphasized that though power to order further investigation is a significant power it has to be exercised sparingly and in exceptional cases and to achieve the ends of justice (see **Devendra Nath Singh vs. State of Bihar & Ors., (2023) 1 SCC 48, para 45**). Whether further investigation should or should not be ordered is within the discretion of the Magistrate and the said discretion is to be exercised on the facts of each case in accordance with law. This Court also held that in an appropriate case, where the High Court feels that the investigation is not in the proper direction and to do complete justice where the facts of the case so demand, the inherent powers under Section 482 Cr.P.C. could be exercised to direct further investigation or even reinvestigation. This Court reiterated the principle that even under Section 482 Cr.P.C. the wide powers are to be exercised fairly with circumspection and in exceptional cases.”*

*(self-emphasis supplied)*

8. In the present case also, admittedly, the present petitioner is neither a complainant nor any material witness of the case. Rather,

he submits that he is a resident of the ward where the offence had allegedly happened. In this admitted background, it can never be held that the petitioner has any *locus standi* to challenge the impugned order passed by the trial Court. Even, in the petition, the petitioner has not highlighted any such fact, which could show that a material fact had been ignored by the police, while conducting the investigation. Even, general, vague and unfounded allegations have been levelled against the process of investigation in the present case and the petition seems to have been filed with some ulterior motive. Even otherwise, the trial Court has passed a well reasoned order and finding no illegality in the impugned order dated 25.02.2019 (Annexure P-8), the present petition is ordered to be dismissed.

9. All pending applications, if any, are disposed off, accordingly.

**09.04.2025**  
amit rana

**(N.S.SHEKHAWAT)**  
**JUDGE**

Whether reasoned/speaking : Yes/No  
Whether reportable : Yes/No