

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45376-2023 (O&M)

Sunder Sham Arora (Petitioner)

Versus

State of Punjab (Respondent)

1	The date when the judgment is reserved	01.04.2026
2	The date when the judgment is pronounced	01.07.2026
3	The date when the judgment is uploaded on the website	01.07.2026
4	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not Applicable

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. R.S. Cheema, Senior Advocate,
Mr. S.S. Narula, Senior Advocate, assisted by
Mr. G.S. Dhillon, Advocate,
Mr. Inderjeet Sihag, Advocate, and
Mr. S.S. Kang, Advocate, for the petitioner.

Mr. Deepender Singh, Additional Advocate General, Punjab, &
Mr. Satjot Singh Chahal, Assistant Advocate General, Punjab.

TRIBHUVAN DAHIYA, J.

The petition has been filed under Section 482 Code of Criminal Procedure (for short, ‘Cr.P.C.’) for quashing of: (i) FIR No.19 dated 15.10.2022, registered under Section 8 of the Prevention of Corruption Act,



1988, as amended by Prevention of Corruption (Amendment) Act, 2018 (hereinafter referred to as 'the PC Act'), at Police Station Vigilance Bureau, FS-I, Punjab at Mohali, Annexure P-1, along with all subsequent proceedings arising therefrom; (ii) final report/challan under Section 173 Cr.P.C., dated 03.12.2022, Annexure P-2; (iii) order passed by learned Special Judge, S.A.S. Nagar, Mohali, dated 29.08.2023, Annexure P-14, whereby the petitioner's application filed under Section 227 Cr.P.C. seeking discharge from the case has been dismissed. Further, a prayer has been made to allow the application for discharge, Annexure P-7.

1.1. At the outset, learned senior counsel for the petitioner have restricted the prayer in the petition, as mentioned in the additional affidavit dated 23.12.2023 also, only to seeking a direction to the respondent to get a fresh/*de novo* investigation of the case conducted through an independent agency.

2. The aforementioned FIR no.19 was registered on 15.10.2022; the relevant extract whereof reads as under:

... states that I am Manmohan Kumar, I am posted as Assistant Inspector General Police at Vigilance Bureau, Flying Squad-1, Punjab SAS Nagar. Yesterday on 14.10.2022 at around 6:15 PM I received a call on my personal mobile phone number 9915029010 from another phone number 9815212222. As this number was not saved in my mobile, I enquired about the identity of the person speaking on the other side. On which the other person told his name to be Sunder Sham Arora and introduced himself as former-minister and told himself to be old acquaintance. While talking about the well being of the families, he told me about the passing away of his wife. On which I paid condolences. On which he told me to sent the location of my house but I refused to do so. But he insisted to



come to my house to share the grief on which I sent him the location of my house at Zirakpur through whatsapp from my number 9915029010 to his whatsapp no. 9815212222. After some time he came to my house and started discussing about domestic matters. During this time he initiated the topic of case pending against him of vigilance bureau and told me that I can save him from this case. He offered me a bribe of Rs.1,00,00,000/- (one crore rupees) in lieu of this and I was shocked to hear this. He told me that he'll pay half the amount of Rs.50,00,000/- (50 lakh rupees) on 15.10.2022 and the remaining amount will be paid afterwards. I never expected this kind of discussion from him that is why I did not record the conversation because I never demanded bribe nor I wanted to take the bribe. Being the officer of vigilance bureau, I remained silent at that time to take legal action against such person who was promoting bribery in the society. He left my house after stating that he will pay the bribe money on 15.10.2022. After he left, I immediately informed my senior officer regarding this. Today on 15.10.2022, Sunder Sham Arora, former minister will come to give me Rs.50,00,000/- (50 Lakhs) as bribe. Sunder Sham Arora, former minister, has committed the crime of inducing a government official to perform his duties illegally by offering him bribe money in return for doing his work. Due to this, appropriate legal action should be taken against former minister Sunder Sham Arora, under the provisions of Prevention of Corruption Act. SD/- Manmohan Kumar dated 15/10/2022, Attested by Ajay Kumar, Deputy Superintendent of Police, Vigilance Bureau, F.S-1, Punjab at Mohali dated 15.10.2022, Police Proceedings:- Today on 15.10.2022, I was present at my office Vigilance Bureau, F.S-1, Mohali. One application from Manmohan Kumar, PPS, Deputy Superintendent of Police, Vigilance Bureau, FS-1, Punjab, S.AS. Nagar, son of Late Mr. Raj Kumar Resident of House No. 8-A, Savitri Enclave, Zirakpur, District S.A.S Nagar was submitted to the Chief



Director Vigilance Bureau Punjab. The Chief Director Vigilance Bureau, Punjab directed the DSP, Vigilance Bureau, F.S-1, Punjab at Mohali to conduct inquiry on the above complaint.

2.1. After completion of investigation, the police prepared a final report against the petitioner under Section 173 Cr.P.C., dated 03.12.2022, and presented it in the Court on 12.12.2022. He was granted regular bail thereafter vide order dated 28.03.2023, Annexure P-3. However, a copy of the final report was handed over to him only on 10.05.2023. He claimed that all the documents relied upon in the report had not been furnished, and moved an application under Section 207 Cr.P.C., dated 16.05.2023, Annexure P-5, seeking a direction to the investigating/prosecuting agency to supply the documents/articles listed in para 2 and 3 of the application. The same was allowed by the trial Court vide order dated 27.07.2023, Annexure P-6, directing the Vigilance Bureau to furnish the documents to the petitioner/accused in the interest of fair trial.

2.2. In the meanwhile, another application was filed by the petitioner under Section 227 Cr.P.C. seeking discharge from the case, Annexure P-7. It was primarily on the grounds that offence under Section 8 of the PC Act was not made out against him, nor was the Vigilance Bureau competent to conduct investigation of the case. Later, a “written note” dated 16.08.2023, Annexure P-9, was submitted before the trial Court taking a few other grounds; one of which was that investigation of the case had not been carried out in a fair manner. It had been got conducted by a police officer who was subordinate to the complainant in the same police station. In effect, it meant the complainant was investigating his own case, which could not be permitted under any circumstances. This also established a definite bias and



lack of fairness in carrying out the investigation, which was even otherwise lopsided. The application for discharge was duly considered by the trial Court and dismissed vide a detailed order dated 29.08.2023, which is under challenge in the instant petition filed on 03.09.2023.

2.3. Thereafter, charge was framed against the accused on 18.09.2023, and as of now six out of twenty-five prosecution witnesses have been examined, as stated by learned State counsel during the course of arguments.

3. In this background, learned senior counsel for the petitioner have firstly contended that investigation in the case stands vitiated on account of inherent bias of the investigating officer in favour of the complainant. The former is an officer subordinate to the latter, who holds an overbearing influence and records his Annual Confidential Reports (ACRs) also. The investigation carried out by such an officer is bound to be one-sided, lacking in objectivity. It is a case of definite bias as the facts have not been impartially looked into. This is the reason whatever complaint was submitted to him, it was accepted as true without carrying out the necessary investigation requiring collection of evidence relating to commission of the alleged offence, examining the witnesses, recording their statements, and finally forming an opinion on that basis whether to send the accused to trial. The final report has been presented without complying with these mandatory requirements. The investigating officer has clearly failed in his duties to carry out a fair and unbiased investigation, to which the petitioner is entitled as a matter of right. Accordingly, the allegations are required to be re-investigated by an independent agency or a competent unbiased officer to ensure free and fair trial of the case which can only be on the bedrock of a



fair investigation. In support of the contention, they have heavily relied upon a judgment rendered by the Supreme Court in *H.N. Rishbud and another v. State of Delhi*, (1954) 2 SCC 934.

3.1. Secondly, it has been contended that the petitioner was unable to seek re-investigation of the case at an earlier point of time, as the facts regarding nature of the investigation and the person by whom it had been carried out, came to his knowledge only after all the documents relied upon by the investigating agency were furnished to him under order of the trial Court, dated 27.07.2023. Immediately thereafter, the issue was raised before the Court by filing the aforementioned “written note”. Therefore, the petitioner cannot be accused of any delay in seeking direction for re-investigation at this stage. No other argument has been raised.

4. *Per contra*, learned State counsel has contended that there is no prayer for re-investigation of the case in the petition which has been filed against the order dated 29.08.2023, whereby the petitioner’s application seeking discharge from the case has been dismissed. In the absence of such a prayer, he cannot be allowed to seek any direction for re-investigation of the case. Even otherwise, the facts do not justify his seeking any such direction from the Court. Investigation of the case has been carried out in a fair and reasonable manner, and the essential ingredients for commission of the alleged offence have been clearly made out on the basis of material collected. It was a trap case where the petitioner was caught red-handed with the bribe money amounting ₹50 lakh, in the presence of witnesses; the currency notes were duly sealed. In this regard, he has referred to the following part of the final report dated 03.12.2022:



... Out of them the person having the heavy structure met the complainant and both sat in the nearby parked white colored Innova car. After some time the person having a heavy structure opened the window and asked the hindu gentlemen who came with him to give him the bag then the person having a thin structure took out the bag from the car and gave it to the above mentioned person. After sometime the shadow witness gave the pre learned signal. After getting the signal from the shadow witness DSP Ajay Kumar along with government witness and the raiding party approached the innova car where the accused and complainant were sitting at the back seat and were talking. Then the investigating officer opened the door of the car and told the hindu gentlemen about his name, position and the raiding party and instructed him not to make any movement and said that whatever action will be taken it would be taken according to the law. Then the investigating officer asked his name on which he told that his name is Sunder Sham Arora former minister, Punjab and the complainant told that the bribe of Rs 50 lakhs which has been given to him by Sunder Sham Arora is in a bag.

Thereafter in the presence of the witnesses on the demand of the investigating officer the complainant produced the tarpal type bag which is printed on both sides with the brand OMNI Since 1992 and tagline and address of the company etc is printed before the investigating officer. The zip of the bag was opened in front of the government witnesses. Out of which a plain a black colored plain polythene bag containing a white polythene bag on which SHALIMAR CARRY BAGS and company and its address was printed out of which bundles of currency notes of denomination 500/500 and 2000/2000 were recovered. On counting the bundles, 30 bundles containing currency notes of denomination of 500/500 (Total-15 Lakhs) Total 17 bundles containing currency notes of denomination 2000/2000 (Total-34,00,000/-) and one bundle containing 50



currency notes of denomination of 2000/2000 (Total-1 Lakh) were recovered. In this manner total 50,00,000/- (Fifty Lakh rupees) were recovered. Bundle of recovered currency notes were taken into police possession as evidence vide recovery memo. Memo was signed by witnesses. At the spot where Sunder Sham Arora had given bribe rough site plan of that place without scale was prepared. Due to gathering of the people there and the spot not being safe therefore investigating officer along with raiding party took the accused sunder sham arora and case property and left for police station F.S-1 Punjab at Mohali. On reaching at police station senior constable Amritpal Singh no. 13/2020 who brought the ruqa got joined in the investigation of the case and got his statement u/s 161 Cr.P.C recorded. The accused was joined in the investigation and interrogated and on finding sufficient evidence to arrest the accused he was arrested as per procedure. The information of the arrest of the accused was given to his daughter Shivani on phone. Memo of arrest and information regarding arrest were prepared which were signed by the witness. Thereafter, the personal search of the accused was conducted. ... All the recovered articles were taken into police possession and memo was prepared which was signed by the accused and witnesses.

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During investigation the blue colored mobile phone brand Samsung which was recovered during his personal search and taken by the police possession was taken out from the malkhana and the screenshots of the incoming/outgoing calls from the Whatsapp call log were taken and were printed and are attached with the challan.

During investigation the footage of CCTV cameras dated 15.10.2022 installed at the parking of Cosmo Plaza Zirakpur were obtained. In this regard pen drive and certificate u/s 65-B of Evidence act were obtained and attached with the challan. Statement u/s 161 Cr.P.C of the concerned were recorded and



attached with the challan. The investigation of the case is completed.

4.1. Learned State counsel further contended that after presentation of final report, cognizance of the offence was taken by the trial Court on 12.12.2022. The petitioner filed two bail applications also, but never raised any objection to the investigation being unfair, biased or tainted in any manner. Even in the application filed under Section 227 Cr.P.C. seeking discharge from the case, no such allegation regarding nature of the investigation was levelled. Therefore, at this belated stage he is not entitled to seek re-investigation. Lastly, he contended that law laid down in *H.N. Rishbud* case *ibid.* was considered by the Supreme Court in *R.A.H. Siguran v. Shankare Gowda alias Shankara and another*, (2017) 16 SCC 126, holding that after cognizance has been taken, trial cannot be quashed for invalidity of investigation. He has also referred to *C. Muniappan and others v. State of Tamil Nadu*, (2010) 9 SCC 567, to contend that trial of the case cannot be made solely dependent upon the probity of investigation.

5. Submissions made by learned counsel for the parties have been considered and records of the case have been perused.

6. Apparently, the FIR in question has been lodged on a complaint dated 14.10.2022 submitted by AIG of Police to Chief Director, Vigilance Bureau, Punjab, who assigned it to Deputy Superintendent of Police, Vigilance Bureau. The investigation was, accordingly, carried out by the latter after registration of the FIR in question. The petitioner was caught with currency notes of ₹50 lakh in the presence of witnesses on 15.10.2022. The car the accused was travelling in, and his mobile phones were taken in possession; the CCTV footage of the parking lot of Cosmo Plaza, dated



15.10.2022, was also obtained. On completion of investigation, final report dated 03.12.2022 was presented, whereupon the trial Court took cognizance of the offence on 12.12.2022. On an application dated 16.05.2023 filed by the petitioner seeking the documents relied upon by the investigating agency (but not given to him), the same were directed to be furnished vide order dated 27.07.2023 passed by the trial Court. Thereafter, he moved another application under Section 227 Cr.P.C. seeking discharge from the case; it was on the grounds that the offence under Section 8 of the PC Act was not made out against him, and the Vigilance Bureau had no jurisdiction to investigate the case. After filing the application, an additional ground was raised by way of a “written note”, dated 16.08.2023, that investigation of the case was biased and tainted as it had been carried out by an officer subordinate to the complainant. It is noteworthy that the petitioner did not seek re-investigation of the case even at that time. It was only before this Court that he raised this plea for the first time through an additional affidavit dated 23.12.2023.

6.1. Learned senior counsel for the petitioner have tried to explain the delay in raising the objection to investigation by contending that in the absence of relevant documents, which were furnished to the petitioner only after the trial Court order dated 27.07.2023, such an objection could not have been taken by him. The explanation cannot be accepted for the simple reason that identity/details of the complainant as well as the investigating officer stood disclosed to the petitioner much prior thereto. The same find mention in the FIR as well as the challan. The police proceedings which are a part of the FIR clearly record that DSP, Vigilance Bureau, FS-I, Punjab at Mohali, has been directed by Chief Director, Vigilance Bureau, to conduct an inquiry



on the complaint. And it is not the petitioner's case that he was not given these documents. Accordingly, there is no basis to contend he was not aware that the investigation was being conducted by an officer subordinate to the complainant. Further, despite the documents/material relied upon in the final report and demanded by the petitioner having been furnished to him in terms of order dated 27.07.2023, he did not seek re-investigation of the case. The only prayer in the application was to discharge him from the case; not even an argument was raised before the trial Court seeking an order for re-investigation. Before this Court also, initially while filing the petition such a direction was not sought, and only during pendency of the petition the prayer was made by way of an additional affidavit, dated 23.12.2023. These facts lead to an inescapable conclusion that it is only as an afterthought the petitioner has sought re-investigation of the case at a belated stage, which cannot be permitted when cognizance of the offence has already been taken and the case is pending trial.

7. After examining merits of the case also, this Court finds that the petitioner cannot be held entitled to seek a direction for re-investigation of the case. The sole premise based upon which the direction has been sought is that the investigation carried out by an officer subordinate to the complainant is bound to be tainted due to inherent bias in favour of his superior/complainant; it cannot be objective or impartial. The subordinate officer would not question the veracity of allegations levelled by his superior, and hence his inability to ascertain relevant facts establishing ingredients of the offences alleged. To substantiate, learned senior counsel have pointed out flaws in the investigation of the case, like failure of the investigating officer to record the conversation between the petitioner and



the complainant, and/or take the help of any other electronic device to collect relevant material, absence of independent witnesses, registering the FIR on exactly the same allegations mentioned in the complaint without verification, etc. This vitiated investigation cannot form the basis of trial. The argument, however, has no merit due to the following reasons. *Firstly*, it stands settled that invalid investigation is not a ground to order re-investigation of the case after the cognizance of offence has been taken, unless miscarriage of justice has been established. And the lapses/flaws in investigation that have been pointed out, even if assumed to be existing, do not make it a case of miscarriage of justice. It is because, considering the material collected during the investigation which *prima facie* indicates the petitioner's presence at the chosen place to meet the complainant with currency notes - recovered and sealed in the presence of witnesses - it cannot be said the prosecution is without any probable cause, nor can it be termed an outcome of sheer malice. It is for the trial Court to ascertain whether ingredients of the alleged offence have been established against the petitioner beyond any reasonable doubt despite the lapses in investigation, if any.

7.1. With respect to the proposition of law aforementioned a reference can be made to *R.A.H. Siguran* case (*supra*), which considers *H.N. Rishbud* case also. The relevant observations of the Court are as under:

9. In *H.N. Rishbud v. State (UT of Delhi)* the question considered by this Court was whether after the court takes cognizance, trial can be held to be vitiated merely on the ground that investigation was invalid. Answering in the negative, this Court held that if the plea of invalidity of investigation is raised at sufficiently early stage, the court, instead of taking



cognizance, direct reinvestigation by competent investigating officer. But, after cognizance is taken, the trial cannot be quashed for invalidity of investigation.

10. The observations in the said judgment are: (*H.N. Rishbud* case, AIR pp. 203-05, paras 9-10)

"9. ... If, therefore, cognizance is in fact taken, on a police report vitiated by the breach of a mandatory provision relating to investigation, there can be no doubt that the result of the trial which follows it cannot be set aside unless the illegality in the investigation can be shown to have brought about a miscarriage of justice. That an illegality committed in the course of investigation does not affect the competence and the jurisdiction of the court for trial is well settled as appears from the cases in *Parbhu v. King Emperor* (1944 SCC OnLine PC 1), and *Lumbhardar Zutshi v. R* (1949 SCC OnLine PC 64). These no doubt relate to the illegality of arrest in the course of investigation while we are concerned in the present cases with the illegality with reference to the machinery for the collection of the evidence. This distinction may have a bearing on the question of prejudice or miscarriage of justice, but both the cases clearly show that invalidity of the investigation has no relation to the competence of the Court. *We are, therefore, clearly, also, of the opinion that where the cognizance of the case has in fact been taken and the case has proceeded to termination, the invalidity of the precedent investigation does not vitiate the result, unless miscarriage of justice has been caused thereby.* (italics by this Court)

10. It does not follow, however, that the invalidity of the investigation is to be completely ignored by the Court during trial. When the breach of such a mandatory provision is brought to the knowledge of the Court at a



sufficiently early stage, the Court, while not declining cognizance, will have to take the necessary steps to get the illegality cured and the defect rectified, by ordering such reinvestigation as the circumstances of an individual case may call for. ...

11. The above view has been repeatedly followed in subsequent decisions of this Court. In *Union of India v. T. Nathamuni* [(2014) 16 SCC 285], the position was discussed as follows: (SCC pp. 289-92, paras 12-17)

"12. It is clear that in the case of investigation under the Delhi Special Police Establishment Act, an officer below the rank of Inspector cannot investigate without the order of a competent Magistrate. In the present case, order of the Special Judge was obtained by filing an application. That order dated 24-9-2009 shows that it was passed on request and in the interest of justice, investigation pursuant to such order did not suffer from want of jurisdiction and hence, in the facts of the case, the High Court erred in law in interfering with such investigation more so when it was already completed.

13. The question raised by the respondent is well answered by this Court in a number of decisions rendered in a different perspective. The matter of investigation by an officer not authorised by law has been held to be irregular. Indisputably, by the order of the Magistrate investigation was conducted by the Sub-Inspector, CBI who, after completion of investigation, submitted the charge-sheet. It was only during the trial, objection was raised by the respondent that the order passed by the Magistrate permitting the Sub-Inspector, CBI to investigate is without jurisdiction. Consequently, the investigation conducted by the officer is vitiated in law. Curiously enough the respondent has not made out a case that by reason of investigation conducted by the Sub-



Inspector a serious prejudice and miscarriage of justice has been caused. *It is well settled that invalidity of the investigation does not vitiate the result unless a miscarriage of justice has been caused thereby.* (italics by this Court)

7.2. Further, concerning the same issue - effect of defective investigation on a case - reliance can also be placed on the law laid down in *C. Muniappan* case (*supra*). It holds that conclusion of trial cannot be allowed to depend solely on the probity of investigation. The relevant paragraph whereof reads as under:

55. There may be highly defective investigation in a case. However, it is to be examined as to whether there is any lapse by the IO and whether due to such lapse any benefit should be given to the accused. The law on this issue is well settled that the defect in the investigation by itself cannot be a ground for acquittal. If primacy is given to such designed or negligent investigations or to the omissions or lapses by perfunctory investigation, the faith and confidence of the people in the criminal justice administration would be eroded. Where there has been negligence on the part of the investigating agency or omissions, etc. which resulted in defective investigation, there is a legal obligation on the part of the court to examine the prosecution evidence dehors such lapses, carefully, to find out whether the said evidence is reliable or not and to what extent it is reliable and as to whether such lapses affected the object of finding out the truth. Therefore, the investigation is not the solitary area for judicial scrutiny in a criminal trial. The conclusion of the trial in the case cannot be allowed to depend solely on the probity of investigation. [Vide *Chandrakant Luxman v. State of Maharashtra*, (1974) 3 SCC 626, *Karnel Singh v. State of M.P.*, (1995) 5 SCC 518, *Ram Bihari Yadav v. State of Bihar*, (1998) 4 SCC 517, *Paras Yadav v. State of*



Bihar, (1999) 2 SCC 126, *State of Karnataka v. K. Yarappa Reddy*, (1999) 8 SCC 715, *Amar Singh v. Balwinder Singh*, (2003) 2 SCC 518, *Allarakha K. Mansuri v. State of Gujarat*, (2002) 3 SCC 57, and *Ram Bali v. State of U.P.*, (2004) 10 SCC 598]

Accordingly, in line with the settled law, in the instant case also the alleged invalidity of investigation cannot in itself be a ground to seek re-investigation of the case, as the petitioner has not been able to establish any miscarriage of justice.

7.3. *Secondly*, in the cases referred to herein before, including *H.N. Rishbud* case (*supra*), the investigation carried out was invalid as it had not been conducted by an officer authorised to do so under the statute, which is not so in the instant case. The investigating officer is not precluded from conducting the investigation in question; it is not invalid or illegal under any law. Nevertheless, learned senior counsel have termed the investigation invalid only because it has been carried out by an officer subordinate to the complainant. In their view such an officer can never be objective in investigating the complaint. The argument is seemingly misconceived, as it is too far fetched to be accepted that a subordinate officer would always be biased in investigating a complaint filed by his superior, and would act in breach of his responsibility to be fair and impartial. Such a view would be outlandish amounting to drawing a presumption against the professional ethics and duties every officer has to stand by. That is the reason even the legislature has deemed it appropriate not to proscribe an investigating officer from investigating his/her superior's complaint under the Cr.P.C., and this Court finds no justification to hold otherwise. Also, the view canvassed has no precedent, nor has any been cited. Furthermore, there is no allegation of



personal bias or wrongdoing against the investigating officer; the allegations are, being subordinate to the complainant he cannot act fairly and impartially in investigating the case. These are mere assumptions as the flaws in investigation pointed out by learned senior counsel, recorded herein before, are mere irregularities not sufficient to indicate inherent bias of the officer. Besides, the allegations against the petitioner have been corroborated by the material collected and the statements of witnesses recorded during the investigation carried out. It is a well-known principle that assumptions cannot replace hard facts and, therefore, cannot serve as a basis to order re-investigation of the case either. In the absence of any allegation, much less any tangible material establishing bias, this Court has no reason to believe that the officer would fail in performing his professional duties in accordance with law.

7.4. A case in point is the Constitution Bench judgment in *Mukesh Singh v. State (Narcotic Branch of Delhi)*, (2020) 10 SCC 120. It dealt with the issue whether an investigation carried out by the informant himself would suffer from the vice of unfairness or bias, which would entitle the accused to acquittal. The Court held that in the absence of any bar in the Code of Criminal Procedure, it could not be said that the police officer registering the case caused any prejudice to the accused by lodging the FIR and conducting the investigation himself. The observations of the Court in this regard are as follows:

12. Therefore, as such, there is no reason to doubt the credibility of the informant and doubt the entire case of the prosecution solely on the ground that the informant has investigated the case. Solely on the basis of some apprehension or the doubts, the entire prosecution version cannot be discarded

and the accused is not to be straightaway acquitted unless and until the accused is able to establish and prove the bias and the prejudice. As held by this Court in *Ram Chandra* [State of Rajasthan v. Ram Chandra, (2005) 5 SCC 151] the question of prejudice or bias has to be established and not inferred. The question of bias will have to be decided on the facts of each case [See *Vipin Kumar Jain*] [Union of India v. Vipin Kumar Jain, (2005) 9 SCC 579].

12.1. xxx xxx xxx

12.2. Similarly, even with respect to offences under the IPC, as observed hereinabove, there is no specific bar against the informant/complainant investigating the case. Only in a case where the accused has been able to establish and prove the bias and/or unfair investigation by the informant-cum-investigator and the case of the prosecution is merely based upon the deposition of the informant-cum-investigator, meaning thereby prosecution does not rely upon other witnesses, more particularly the independent witnesses, in that case, where the complainant himself had conducted the investigation, such aspect of the matter can certainly be given due weightage while assessing the evidence on record. Therefore, as rightly observed by this Court in *Bhaskar Ramappa Madar* [Bhaskar Ramappa Madar v. State of Karnataka, (2009) 11 SCC 690], the matter has to be decided on a case-to-case basis without any universal generalisation.

Consequently, in the facts of the instant case, as already discussed, it cannot be accepted that investigation is biased and vitiated merely because it has been conducted by an officer subordinate to the complainant.

8. In view of the discussion, there is no merit in the petition and it stands dismissed.

9. Pending miscellaneous application(s), if any, also stand(s) disposed of.



10. The observations made in the judgment are only for deciding this petition and will have no bearing on the pending trial.

(TRIBHUVAN DAHIYA)
JUDGE

01.07.2026
Maninder

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