

Central Administrative Tribunal
Principal Bench

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O.A. No. 675/96

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New Delhi, this the 20th day of May, 1996

Hon'ble Shri A.V. Haridasan, Vice-Chairman (J)
Hon'ble Shri R.K. Ahooja, Member (A)

Kailash chand s/o Sh. Munshi Ram,
r/o village Pasoli, Post Office Lakhavati,
Distt. Bulandshahar, temporarily staying
at Police Lines, 6th Bn., Barrack No. 15,
Model Town, Delhi-9.

....Applicant.

(By Shri Shyam Babu, Advocate)

Versus

1. Deputy Commissioner of Police,
6th Bn. DAP, Model Town,
Delhi.

2. Shri Attar Singh, Inspector,
(Enquiry Officer), 6th Bn.,
DAP, Model Town,
Delhi.

....Respondents

(By Shri Ajesh Luthra proxy for
Ms Jyotsana Kaushik, Advocate)

ORDER (Oral)

By Hon'ble Shri A.V. Haridasan, Vice-Chairman (J):

This is one of the cases in which police official of Delhi Police is proceeded simultaneously before the Criminal Court as also in the departmental proceedings. The basic accusation against the applicant both in the criminal case as also in the departmental proceedings is that he dishonestly misappropriated a departmental weapon and 12 cartriages. While the applicant has been served with a summary of in allegations/the departmental proceedings, he has also been implicated in a criminal case under FIR No. 329/95 for an offence punishable under Section 409 of the I.P.C. The applicant alleges that the allegations being the same and the witnesses to be examined both in the departmental proceedings as also in the

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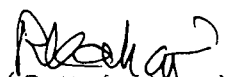
criminal case being common his defence in the criminal case will be prejudiced, in case the departmental proceedings is held simultaneously. Therefore, the applicant has filed this application for a stay of the departmental proceedings till the criminal case is disposed off.


Respondents admit that the basic allegations in the criminal case as also in the departmental proceedings are the same and that common witnesses are to be examined; but they contend that as the evidence recorded in the departmental proceedings would not be used before the criminal court, no prejudice is likely to be caused to the applicant by holding the departmental proceedings, simultaneously with the criminal proceedings.

After hearing the counsel on either side, in the conspectus of facts and circumstances of the case, we are of the considered view that if the applicant is to cross-examine the witnesses to be examined in the departmental proceedings, his defence before the criminal court in the criminal case is likely to be prejudiced as the witnesses are admittedly common. Therefore, we consider it necessary, in the interest of justice, to direct the respondents to allow the applicant to defer the cross examination and not to enter on his defence till such time evidence in the criminal case would be over.

We dispose of this application with a direction that the applicant shall be allowed to defer the cross examination of the witnesses to be examined in the departmental proceedings, and entering on his defence till the evidence in the criminal case in FIR.No. 329/95 is fully recorded.

There is no order as to costs.


(R.K. Ahooja)
Member(A)


(A.V. Haridasan)
Vice-Chairman(J)

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