

28.

***IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 1634/2007

GHANSHYAM DASS

..... Petitioner

Through Mr. K.S. Singh, Ms. Madhu Sharma & Ms.
Ritu Chaudhary, Advocates.

versus

C.B.I. & ORS.

..... Respondents

Through Mr. Anindya Malhotra, Advocate for Mr.
Harish Gulati, Advocate for CBI.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

% **21.09.2010**

1. Detailed arguments were heard on 31st August, 2010. Learned counsel for the petitioner had raised contentions with regard to failure of CBI to record statements or examine Dr. Sanjay Khanna, Mr. Saurav Trivedi and a correspondent of the newspaper Pioneer. It was also stated that no attempts were made by CBI to identify the morning walker, who had informed the PCR van about injured police officer the in Childrens' Park.

2. The petitioner being father of late Constable Ram Babu Sharma has been agitating this matter for last more than ten years. It is apparent that he strongly feels that his son could not have committed suicide. It is his contention that he was murdered. To reassure myself and to examine the allegation, the case diary was requisitioned. The case diary was handed over by the learned Standing Counsel in a sealed cover. I have gone through the case diary.

3. The case diary reveals that statement of Mr. Saurav Trivedi was recorded and he was interrogated by the CBI. CBI had also got in touch with Dr. Sanjay Khanna and had received an e-mail from him expressing his difficulty to state about the problem or medications given to Constable Ram Babu, the deceased.

CBI had also got in touch with the vegetable vendor Mr. Ram Kumar and had recorded his statement. They had got in touch with Mr. Vipul Nautial, Correspondent of the newspaper The Pioneer. He was asked about the name and address of the person, who had got in touch with him as mentioned in his article, but he could not furnish the details. CBI had recorded the statement of Mr. S.N. Srivastava, then DCP(North). He had stated that he had met the morning walker, who had first noticed Constable Ram Babu Sharma in the Childrens' Park in an injured condition. Mr. S.N. Srivastava, however, was not able to give details like name and address of the said morning walker. Other police officers, who were initially informed by the morning walker were also examined. It appears that the police officers did not attribute or think that the morning walker could throw any light or had information about how and why Constable Ram Babu Sharma had suffered the bullet injuries. CBI has also examined the persons, who were present at the time of post mortem and whether any attempt was made to influence the post mortem report. The record shows that the CBI was aware and conscious of the points raised by the petitioner herein, which were required to be examined and gone into. These aspects were taken due notice of and thoroughly examined. I have mentioned these facts as they do not find mention in the closure report, which was filed by CBI and was accepted by the learned trial court. These facts are also not mentioned in the impugned order passed by the learned Additional Sessions Judge dismissing the revision petition filed by the petitioner against the order accepting the closure report.

4. On the question whether Constable Ram Babu Sharma had committed suicide or it is a case of murder, CBI had re-constructed the entire crime scene and has relied upon expert opinion given by a team of specialists, who had examined the fire arm as well as the nature of injuries. They have also taken into consideration the fact that the shirt of Ram Babu Sharma was unbutton, his shoes were lying at a distance and the glass of the wrist watch was broken and the watch was displaying time of 2.30. After noticing these aspects and after

due consideration, CBI has come to the conclusion that on the basis of available material no case for murder is made out. Learned Additional Sessions Judge has noticed that there was no evidence of any motive on the part of any person to commit murder of Constable Ram Babu.

5. It may be noticed here that initial investigation was undertaken by Delhi Police. They were of the opinion that it is a case of suicide. On a complaint made by the family members of the deceased, the matter was referred to Crime Branch of Delhi Police by the Commissioner of Police. They too after inquiry came to the conclusion that it is a case of suicide. The wife of the petitioner and mother of the deceased filed Criminal Writ Petition No. 386/2000. The court after noticing certain facets directed registration of an FIR and had directed the CBI to conduct the investigation. Pursuant to the said direction, CBI has conducted the investigation. The learned trial court after examining the facts of the case accepted the closure report. The learned Additional Sessions Judge also after considering the facts of the case including the allegations made by the petitioner did not find any merit in the revision petition.

6. In view of the aforesaid reasoning, I do not find any reason to interfere with the impugned orders. Accordingly, the present petition is dismissed.

SANJIV KHANNA, J.

SEPTEMBER 21, 2010
VKR