

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-20044 of 2010 (O&M)
Date of Decision: September 21, 2015

Surjit Singh

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.K.S.Dadwal, Advocate
for the petitioner.

Mr.B.S.Bhullar, Asstt. Advocate General, Punjab
for respondents No.1, 3 and 4-State.

None for respondent No.2-CBI.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for transfer of the investigation of case FIR No.21 dated 27.03.2010 under Sections 302, 397, 34 IPC and Section 25 of the Arms Act, registered at Police Station Hazipur, District Hoshiarpur to CBI and also to provide security to protect the life and liberty of the petitioner and his family keeping in view the peculiar circumstances of the case.

It is mainly stated in the petition that the police, due to political reasons, is not tracing out the murderers despite the fact that the petitioner has already suspected some of the persons, who are connected with the commission of offence. The brief facts of the case are that Narinder Singh, son of the petitioner, who was deed writer,

has been gunned down in a day light, yet the police remained unable to take the case to a logical end. The murder of the son of the petitioner is due to political reasons and the persons named in the statement are connected with the commission of offence but due to political conspiracy of Chief Parliamentary Secretary Arunesh Shakar, the police is not taking any action. It is further stated that the petitioner retired from the Agriculture Department in the year 1989 and became President of Village Congress Committee. He also contested the election of Gram Panchayat etc. and Ravinder Sharma contested as rival candidate and during that period, the aforesaid persons pressurized the petitioner to not to contest the elections and the petitioner was got defeated by illegal means. The son of the petitioner namely Narinder Singh @ Bittu got licence of Deed Writer in the year 1989. However, Head Constable Vidya Sagar snatched the register in the year 1993 and regarding which an application was given to DGP, Punjab as well as Finance Minister, Punjab against Head Constable Vidya Sagar and Chaman Lal. The application was enquired into but no action was taken. During the election of 1998, Arunesh Shakar tried to prevail upon the petitioner to help him. However, when he did not help him, the votes were gone down due to which he was blaming the petitioner and his son Narinder Singh. It is further stated in the petition that Vidya Sagar, Chaman Lal Sharma, Ravinder Sharma and Parveen Sharma have connived with Kewal Krishan Bhatia and without any occurrence, he filed a complaint under SC/ST Act against 84 persons. It is also stated that the influential

persons in connivance with each other got the sale deed by impersonating knowing fully well that no sale deed with regard to shamlat property can be done. When sale deed as well as Power of Attorney was to be written, Narinder Singh refused to do so. It is further stated that after the execution of the sale deed, which was illegally executed, Naval Kumar and others filed CWP No.20255 of 2008 before this Court. Naval Kumar belonged to Congress Party, therefore, the beneficiaries were suspecting that the execution of sale deed has been informed by the petitioner as well as his son to Naval Kumar.

Notice of motion was issued and learned State counsel appeared and contested the petition. Learned counsel for CBI was appearing earlier, but today none appeared on behalf of respondent No.2-CBI.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, first of all, I find that FIR No.21 dated 27.03.2010 under Sections 302, 397, 34 IPC and Section 25 of the Arms Act has been got registered by present petitioner Surjit Singh and it bears his signatures in English. Now, as argued by learned counsel for the petitioner, at that time the petitioner was not in a position to examine all the facts and that statement was recorded by the police officials itself and his signatures were obtained. Secondly, the statement has been placed on record which was given by Surjit Singh before learned SDM in the enquiry on 03.05.2010. In this

statement, it is written that this statement is in continuation of earlier statement dated 03.04.2010, which is not placed on record. The perusal of the record further shows that this is a blind murder case and based on circumstantial evidence. There is nobody who has seen the occurrence. The petitioner is suspecting some of the persons, who have some motive etc. against the petitioner and his son (deceased), who was the deed writer. Even if it is taken that Narinder Singh (deceased) refused to scribe some sale deed or some sale deed has been got executed by impersonation, in the ordinary circumstances, will not prove itself that these so many persons are involved or conspired with each other to commit the murder of deed writer. The sale deed is a documentary evidence and is available in the Sub-Registrar's office also. So, it cannot be held that Narinder Singh was the only persons having very serious and important information with him. The petitioner is only showing suspicion against these persons. There may be motive as alleged by the petitioner but no other evidence of any type has been shown by the petitioner to connect the accused with the crime. Annexure P-2 is the application sent to the Chief Minister, Punjab Government. Even in this application, it is written that all the Illaqa people, Panches, Sarpanches, Nambardars and from the family of Narinder Singh contend that Narinder Singh son of Surjit Singh was murdered by hitting bullets in the daylight at about 3.00 P.M. in front of Thakur Dharam Kanda on Mukerian Talwara road by the motorcycles and the police cannot catch any murderer. It is appealed that the police be

directed that the murderer be nabbed as early as possible to remove the displeasure and fear against the police and murderers be punished. None of the accused has been named in this application. During the pendency of this petition, status report was asked by the Court, which has been given by way of affidavit of Senior Superintendent of Police, Hoshiarpur. In this status report, it has been mentioned that Special Investigation Team comprising the deponent, DSP Mukerian, CIA Incharge Dasuya and SHO Police Station, Hazipur has been formed and investigation is being conducted by them. It is further stated in the status report that the Alto car which was taken away by the culprits from the deceased was recovered by the concerned police official on 28.03.2010 from the area of Police Station Ram Dass, District Amritsar. It is in this status report that after taking the possession of the said vehicle, the finger prints from the said vehicle were lifted by Gurdip Singh, Sub Inspector, Finger Prints Expert and the same were sent to Finger Prints Bureau, Phillaur for comparison with the finger prints of suspected person namely Ravinder Sharma but these do not tally. It is also in the status report that Madan Lal, Ravinder Sharma, Rudar Mani and many other persons were questioned during the investigation but no evidence was found against the suspected persons. The finger prints of other suspected persons namely Kewal Krishan Bhatia, Prem Chand, Chaman Lal, Ashok Kumar, Parveen Kumari, Gaggan Deep and Shiv Kumar were taken and sent for comparison to Finger Prints Bureau and a report was given by the

Director, Finger Print Bureau, Phillaur that these finger prints do not tally with the sample. It is further in the status report that enquiries were made from those persons, who were having licence of 7.65 mm pistol with which the deceased was murdered by the culprits. It is also in the status report that during investigation of the case SP(D) Hoshiarpur and DSP Mukerian conducted enquiries from the suspected persons and came to know that one Randhir Kumar @ Vijay Topi @ Rinku was arrested by Gurdaspur Police and a pistol of 7.65 mm was recovered from him. The police officials went to Gurdaspur and even during the investigation, it was found that the accused was confined in jail on the date of occurrence. In the status report, other facts are also mentioned that so many accused, who were arrested, were investigated but no evidence was found. Another status report is also on the record, which is dated 29.08.2011, in which it is stated that during investigation, accused Baljit Singh @ Balli and Inderpal Singh alias Lucky were arrested. During the investigation, it was found that motorcycle recovered from Baljit Singh @ Balli is having fake registration number. One pistol, one pistol magazine and 7 cartridges were recovered from accused Inderpal Singh @ Lucky. It is also in the status report that accused Baljit Singh @ Balli and accused Inderpal Singh @ Lucky are in judicial custody in the above-said case. It is further stated that after completion of investigation, the challan will be presented.

At the time of arguments, it is admitted that challan has already been presented in the Court and charges have been framed

and the trial is almost complete. The application under Section 319 Cr.P.C. was filed by complainant Surjit Singh present petitioner, which was dismissed by learned trial Court.

The perusal of the record shows that in the present case, SIT has been formed headed by a Senior Police Officer. The suspected persons have already been investigated and no evidence has been found, even from finger prints, which were sent for comparison with the sample finger prints taken from the car, which was taken away by the accused. Otherwise also, at the time of arguments, I find that except suspicion, there is nothing on the record of any type to show involvement of Ravinder Sharma and so many other persons.

Further, I find that the grounds mentioned in the petition regarding contesting of elections of Sarpanch, in which the petitioner was defeated or other grounds that register was taken away by Head Constable or in the year 1998 or they have not supported Arunesh Shakar etc. alone are not sufficient to connect the suspects in the present case.

As argued by learned State counsel, from the accused money bag containing currency notes was recovered. The pistol was also recovered. Learned State counsel also argued that sufficient cogent evidence has been produced before the trial Court to connect the accused with the crime. The trial is almost complete before the trial Court.

In view of the above discussion, without expressing any

opinion on merits regarding evidence which has been produced by the prosecution against those accused, I do not find any cogent ground to transfer the investigation, at this stage, to the CBI. In no way, from the record, it can be held that it is a case where investigation should be handed over to CBI.

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

However, nothing state above, will constitute my opinion on the merits of the case.

September 21, 2015
Vgulati

(INDERJIT SINGH)
JUDGE