

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-17234 of 2015 (O&M)

Date of Decision: October 21st, 2015

Baldev Raj

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest? Yes

Present:- Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Manhar S. Saini, Advocate,
for petitioner.

Mr. Varun Sharma, AAG, Punjab.

Ms. Ramandeep Kaur, Advocate for
Mr. Sumeet Goel, Advocate,
for CBI.

SHEKHER DHAWAN, J

Present petition has been filed under Section 482 Cr.P.C. with two-fold prayer i.e., [i] for protection of life and liberty of the petitioner and other members of his family and material witnesses in FIR No.19 dated 09.03.2015, under Sections 302 and 34 IPC, 25, 27 of Arms Act, 1959, registered at Police Station Khem Karan, District Tarn Taran and [ii]. for entrusting investigation of this case FIR to CBI as the local police is under pressure of respondents No.4 to 7.

2. Relevant facts of the case, that on 30.12.2014 petitioner's son Shashi Kapoor and his partner Gurmail Singh alias Gora were present at the shop of Gurmail Singh at main road, Khem Karan and Charrat Singh

(respondent No.4) armed with a country made pistol came along with his goons and fired gun shots which hit Gurmail Singh alias Gora on his left arm. Thereafter the accused ran away. Shashi Kapoor was an eye witness in the FIR. Charrat Singh is an influential person and police did not register an FIR for several days. Only when the people took to the streets, the FIR bearing No.10 dated 23.01.2015, under Sections 307, 452, 148 and 149 IPC, 25, 54 and 59 of Arms Act, registered at Police Station Khem Karan, District Tarn Taran was registered.

3. Son of the petitioner was repeatedly threatened and intimidated by the accused persons but police took absolutely no measure to arrest Charrat Singh. On 22.02.2015 Shashi Kapoor has given representation to the S.S.P. Tarn Taran that Charrat Singh openly roams around in his village. He has also mentioned that on 22.02.2015 at about 4.30 pm, 8 persons had come to his house and had threatened his family members not to give evidence in the above detailed case but no action was taken by the police nor any security was given to the son of the petitioner. Another representation was made to D.G.P., Punjab on 06.03.2015 giving alarm and threat to the life of son of petitioner but no action was taken. On 09.03.2015 Charrat Singh along with his brother Jagroop Singh and respondents No.6 and 7 came and murdered the son of petitioner and FIR No.19 dated 09.03.2015 under Sections 302 and 34 IPC, 25, 27 of Arms Act, registered at Police Station Khem Karan, Tarn Taran was registered.

4. Learned counsel for the petitioner submits that police is not taking any effective steps for arrest of respondents No.4 to 7. During this long period, petitioner is not getting any hope to get justice from Punjab Police. So investigation of the matter be entrusted to CBI.

5. Learned State counsel submits that FIR against Charrat Singh

had already been registered. Arrest warrants against accused Charrat Singh, Gurjant Singh and Sandeep Singh were issued and after that proclamation were issued by the Court. Proclamation Proceedings are pending before the Court. Security has already been provided to the petitioner and family of petitioner vide DDR No.33, dated 10.04.2015 and HC Resham Singh No.713, HC/P Parminder Singh No.55 and HC/P Harjit Singh No.1477 were deputed for security purpose. After completion of investigation challan against accused Hira Singh and Jagroop Singh was presented before the Court of Sub Divisional Judicial Magistrate, Patti on 26.06.2015. So, the necessary steps as provided by law have already been taken by the police and there are no grounds for passing any further order by this Court because security has already been provided to the petitioner and witnesses of the case and accused who have already been arrested has been sent to face trial and necessary steps are being taken to procure the presence of remaining accused.

6. Having considered the facts that security has already been provided to the petitioner for his life, liberty and property vide order dated 27.05.2015 and on the basis of said order, vide DDR No. 33 dated 10.4.2015, Head Constable Resham Singh, Head Constable/P Parminder Singh and HC/P Harjit Singh have been deputed with the petitioner for security purpose.

7. At present, the petitioner seeks entrustment of the investigation to the CBI as according to him, the State Police is not taking effective steps for the arrest of the remaining accused. By now, the State has already completed the investigation. Challan against accused Hira Singh and Jagroop Singh has already been presented in the Court of Sub Divisional Judicial Magistrate, Patti on 26.6.2015 and proclamation has

been issued against accused Charrat Singh, Gurjant Singh and Sandeep Singh by the said Court. During investigation, blood stained earth and wearing of the deceased were taken into custody and sent for analysis to F.S.L, Chandigarh. Weapon of offence, i.e., .32 bore pistol along with three live cartridges was also recovered from the possession of the accused Hira Singh and on 5.5.2015, accused Jagroop Singh was also arrested.

8. As regards to issuance of directions to CBI to investigate the matter, identical matter was before Hon`ble Supreme Court in **State of West Bengal and Ors. Vs. The Committee for Protection of Democratic Rights West Bengals & Ors., 2010 [2] JT 352** and the Apex Court observed that the High Courts have ample power to direct C.B.I. To investigate a cognizable offence without the consent of the State Government, but the said power should be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national or international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights.

9. While exercising such powers the Courts must bear in mind certain self-imposed limitations. The very plenitude of the power requires great caution in its exercise. In so far as the question of issuing a direction to the CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. Otherwise, the CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the

process lose its credibility and purpose with unsatisfactory investigations.

10. In view of the above observations of Hon`ble Supreme Court of India and the facts of the case in hand, the present petition is disposed of with the following directions :-

[1] State shall make continuous efforts to provide protection to the petitioner as per orders passed by this Court on 27.5.2015 till further orders or till the conclusion of trial in this case.

[2]. Every effort shall be made to arrest the remaining accused at the earliest even by constituting Special Team for the purpose and by taking effective steps regarding proclamation of the accused persons under Section 82 Cr. P.C. and attachment of their property under Section 83 Cr.P.C.

11. However, no case is made out for ordering entrustment of investigation of this case to CBI and said prayer is declined.

12. Disposed of in the above terms.

**(SHEKHER DHAWAN)
JUDGE**

October 21st, 2015
msd/som