

Criminal Miscellaneous No.M-17764 of 2014 (O & M)
Date of Decision: May 29, 2015

Raj Kumar

..... PETITIONER

VERSUS

State of Haryana & others

..... RESPONDENTS

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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

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PRESENT: - Mr. Ram Kumar Kashyap, Advocate, for the petitioner.

Mr. Charanjit Singh Bakhshi, Additional Advocate General, Haryana.

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Jaspal Singh, J

1. This is a petition preferred by Raj Kumar under Section 482 Cr.P.C. for issuance of direction to respondent Nos.1 to 3 to arrest the main/real accused i.e. respondent No.4 – Om Parkash, Head Constable, Kurukshetra, in case FIR No.133 dated March 5, 2014 under Sections 279, 337, 304 IPC, Police Station, Thanesar, District Kurukshetra, who committed an accident due to rash and negligent driving of his motor-cycle.

2. The instant case was registered on the basis of statement of complainant – petitioner, Raj Kumar, who unfolded that on April 4, 2014 petitioner and his mother were going to temple at about 7:15 PM. When petitioner and his mother were crossing the road in front of the Sadhu Mandi, a person who was driving the motor cycle rashly and negligently hit the mother of the petitioner straightaway, due to impact of accident, his mother fell on the road and received serious injuries on her head and abdomen. Motorcyclist was stopped who told his name as Om Parkash. One boy namely Ravi son of Pal Chand, village Kheri Markhanda, District Kurukshetra, helped the petitioner who took his mother to hospital. Petitioner and Ravi also noted down the number of motor cycle as HR-07-T-5008. Motorcyclist was also identified by them as Om Parkash who fled away from the spot by accelerating his motor cycle. Subsequently, it came to light that motorcyclist who caused the accident, is a police official and is posted as Head Constable at Unit, Kurukshetra.

3. Contention of learned counsel for the petitioner is that though FIR in question was lodged but it has not been registered by the police against the real and actual accused who caused the accident. Rather, FIR has been lodged against one Rajinder Singh who did not play any role in causing accident. Rajinder Singh has been named as an accused at the instance of Om Parkash. In this regard, petitioner moved an application that actual accused is Om Parkash and not Rajinder Singh but police is not paying any heed to the version being unfolded by him. Due to sustaining of injuries, mother of the petitioner lost her life. Representation dated March 13, 2014 was moved to SHO, Police Station, City, Thanesar, but it did not bring any fruitful result. Statements of

witnesses have also not been recorded as unfolded by them under Section 161 Cr.P.C. Similarly, actual accused is also not being arrested by police who is otherwise moving freely and extending threats to the petitioner. Though, an effort was made to bring actual facts to the knowledge of the Investigating Officer but he is also not paying any heed and is rather pressurizing the petitioner to arrive at a compromise.

4. Here it would be pertinent to mention that Investigating Officer has even recorded the supplementary statement of complainant - Raj Kumar (Annexure R-1), according to which, he has identified Rajinder Singh as motorcyclist involved in the accident. But, it is the categoric stand of Raj Kumar that he did not make any statement to Investigating Officer in this regard.

5. Fair, proper and impartial investigation is right of every citizen, and that of any aggrieved person which is lacking in this case. Investigation of the case deserves to be conducted by an independent agency. In the case in hand, complainant has specifically alleged that the motor cycle was being driven by HC Om Parkash and not by Rajinder Singh who has been made as an accused in this case. Investigating agency is not paying any heed to his version. In such a situation, this Court is of the considered view that investigation by any other independent agency would certainly bring home all the ramifications involved in this case.

6. Accordingly, the petition is disposed of with a direction to the Director General of Police (Crime), Haryana, that investigation of this case be got conducted by an officer appointed/deputed in this regard by

the office of DGP (Crime), Haryana, which shall be supervised by an officer not below the rank of Deputy Superintendent of Police.

7. Needful be done within a period of three months from the date of receipt of a certified copy of this order.
8. Status report be furnished by September 7, 2015.
9. Copy of this order be given to learned State counsel under signatures of Court Secretary.

May 29, 2015
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(Jaspal Singh)
Judge