

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-2435 of 2013 (O&M)

Date of Decision:26.03.2015

Sanjay Kumar

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. S.S. Majithia, Advocate for the petitioner.

Mr. Chetan Sharma, AAG, Haryana for respondents No.
1 to 3.**NAVITA SINGH, J.****CRM No.1039 of 2015**

Application is allowed as prayed for.

CRM-M-2435 of 2013

1. Affidavit of Rajesh Kumar, Deputy Superintendent of Police (Headquarter) Karnal is filed, which is taken on record.
2. Heard.
3. The petition is filed for handing over the investigation to the Crime Branch, Haryana or to some independent investigating agency as the local police is allegedly siding with the accused.
4. The FIR in this case was lodged on 30.10.2012 by Ishwar Dayal, maternal uncle of deceased Shweta, who was allegedly murdered by her own father Sohan Lal.
5. Later on, Ishwar Dayal-complainant also came under the influence of the accused and the matter was hushed up and the police prepared a cancellation report.
6. It was pointed out by counsel for the petitioner that as per the reply filed on behalf of respondents No.1 to 3 according to the report of the

chemical examiner, the cause of death in this case was asphyxia as a result of constricting force around the neck which was ante mortem in nature, recent in duration and caused by ligature material as a result of hanging.

7. Actually it was found that the cause of death though was asphyxia due to hanging, the other part was concealed by the police, where actually the words were that it appeared to be a case of hanging but the hanging point could not be accessible to the deceased and the opinion was that it appeared to be a case of fabrication to make out a case of hanging which could be suicide.

8. The police filed cancellation report stating that no evidence could be collected that Shweta was murdered.

9. According to the petitioner, no proper effort was made to collect the finger prints though those were present at the crime scene on the upper surface on the blade of the fan, which point was not possibly accessible to the accused.

10. The petitioner was a neighbour of Sohan Lal and he filed the present petition requesting that investigation should be made by some independent agency because the accused being rich and influential person, was able to manage the things. He succeeded in pressurizing his wife's brother Ishwar Dayal, who was the complainant.

11. It is rightly stated by counsel for the petitioner that on receipt of cancellation report, the court shall issue notice to the complainant Ishwar Dayal, who for obvious reason having sided with the accused, will not make any protest. The petitioner shall not be heard by the court on the ground that he was not the complainant. State counsel submitted that the petitioner was called before the cancellation report was prepared but he did not help the police during investigation. Counsel for the petitioner, however, submitted

per contra, that the petitioner was present in court and he was ready to make a statement and file affidavit that he had never backed out from joining the investigation to help the police but the investigation agency itself was not interested in taking action against the accused.

12. In the facts and circumstances, it appears that Shweta died in mysterious circumstances for which thorough and independent investigation is required to be conducted. If the local police has not conducted the investigation properly and the complainant sides with the accused in agreeing to cancellation report, it should not mean that if Shweta was murdered, the death should not be properly investigated.

13. The petition is allowed. It is directed that if the cancellation report is filed before the court, the court shall not pass any order on the same and the matter shall now be investigated by the Crime Branch, Haryana, who shall then submit its final report in the matter as per law.

(NAVITA SINGH)
JUDGE

26.03.2015
ishwar