

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M No.27041 of 2011 (O&M)
Decided on : 31.07.2015**

Gursharan Singh

.... Petitioner(s)

Vs.

State of Punjab & ors.

.... Respondents

CORAM:- HON'BLE MR. JUSTICE MAHESH GROVER

Present:- Mr. P.B.S.Goraya, Advocate
for the petitioner.

Mr. J.S.Sekhon, AAG, Punjab.

Mr. J.S.Bedi, Sr. Advocate with
Mr. Harpreet Multani, Advocate
for respondent No.5.

Mr. S.S.Sandhu, Advocate for CBI.

MAHESH GROVER, J.(Oral)

This is a petition filed by an anguished father seeking proper investigation into the death of his daughter whose marriage was only five months' old. She died on account of a gun shot injury in her abdomen. The death is stated to be instantaneous. The postmortem report establishes the cause of death as follows:

"Injuries: *There is only single wound of entry 3 cm above the umbilicance in the centre of the abdomen and wound margin is blackened all around. Arota is punctured at the umbilical level. Small intestine is contused and abdominal cavity is full of blood. Vertebra at the level of L-2 fractured. No wound of exit seen. Seven metallic pellet like bodies and a dumbbell shaped structure removed from the abdominal cavity.*

Opinion: *The cause of death in our opinion is due to shock and haemorrhage due to the injuries sustained by*

the lady as prescribed which is sufficient to cause death in an ordinary cause of nature.

Time that elapsed:

- a. Between injury and death: Immediate*
- b. Between death and postmortem examination: about between 24-36 hours"*

On the date of occurrence i.e. 11.08.2011, the deceased was in her house as was also a maid named Seeta. Her husband Sarabjit Singh had business interests in Dubai. On the fateful day, Nirmal Singh, the deceased's father-in-law along with his wife Ranjit Kaur was also away to Dubai. The only two occupants of the family were the deceased and her sister-in-law (nanad) Tejinder Kaur @ Lovely.

The facts, which have emerged reveal that Tejinder Kaur used to go to Tarn Taran as she was pursuing a course in nursing and returned in the afternoon. On 11.08.2011 also, she had gone similarly and returned at about 3.30 pm and enquired from her maid Seeta about Manik (deceased) whereupon she was informed by her that Manik was resting after her return from the college upon which Tejinder Kaur is said to have knocked at the door and eliciting no response, she made a phone call to the deceased, which also went unanswered whereafter the door was pushed open with force in the presence of maid Seeta. The latch of the door broke from inside and Tejinder Kaur noticed that the deceased was lying on the double bed with her legs dangling below the bed.

According to investigations/number of enquiries carried out including the one by a SIT, which was constituted by the Inspector General of Police, it was observed that upon discovering the dead body of deceased and finding it cold Tejinder Kaur thought that the

deceased was having some problem with her blood pressure and tried to massage her body. But later she lifted the shirt from her abdomen only to discover a gun shot injury on the abdomen with the skin protruding out. It is thereafter she noticed that a rifle 12 bore gun was also lying near the dead body and then she called the people from the neighbourhood and also one Gurdeep Singh s/o Jaswinder Singh, Sulakhan singh s/o Joginder Singh, Bali Singh, Sarpanch s/o Sardara Singh, Balwinder Singh s/o Sardara Singh, Jaswinder Singh s/o Hazara Singh, Charan Singh s/o Piara Singh, Harbans Singh s/o Hazara Singh, Gian singh Giani, all residents of the village. Tejinder Kaur also made a phone call to Gursharan Singh, father of the deceased, who told her to take Manik to the hospital and then Tejinder Kaur went to the house of her uncle Gurdial Singh and asked his son namely Jagjit Singh to bring his vehicle to take Manik to the hospital. He did so and went to the place where the dead body was lying and picked up the rifle from the bed in the presence of the persons who were standing there and unloaded it to find one spent and unspent cartridge. The rifle was kept on one side.

It is not clear from the report of the SIT as to at what point of time, the police actually visited the site of occurrence. The report Annexure R-5/1 is hazy to this effect. In any eventuality the matter was taken a bit forward when the report of SIT was submitted to the Inspector General of Police, who posed a number of questions to the SIT, which along with answers are extracted herebelow:

"Q1. What was the length of the double barrel gun with which the deceased girl Manak fired upon herself?

Ans- The total length of the gun no.2829-A/3 recovered in the case is 46.5 inch. The length from the tip of the barrel up

to the trigger is 32.5 inch. The length of the barrel is 30.5 inch. Because the height of the deceased girl Manak was 5'2" (as per postmortem report). Thus she could possibly have fire upon her belly by pressing the trigger with her thumb. The possibility of firing by her cannot be ruled out.

Q2. When the door was broke opened whether KUNDI of the door was totally broken or one screw was broken?

Ans- As per the photographs left side screw of the KUNDI was broken. Report from FSL Phase 4 Mohali has been obtained regarding this.

Q3. It has been found that the daughter of the complainant has been fired at her belly and there was no blood stain at the hands of the girl Manak. There is no movement of hands and feet after the fire injury. There was no signs of movement on the bed where her dead body was placed and on the bed sheet?

Ans- There was no sign of movement on the bed sheet because as per postmortem report her death was instant after the gunshot was fired because of instant death there was no chance of movement in case of instant death. It is clear from the photographs that the bed sheet was folded under the mattress from all sides and in this case there is no possibility of slipping of the bed sheet. And as per photograph hands were not blood stained. The gun that was recovered in this case has been examined from FSL Mohali. As per the report of FSL there was no blood stains on the Barrel of the gun.

Q4. According to the postmortem report death of Manak was between 24 to 36 hours after the fire injury during this period whether she was admitted in some hospital. If so the statement of the doctor was recorded or not?

Ans- As per the postmortem report the death is instant. She died on 11.08.2011 and the postmortem was conducted on 12.08.2011. The postmortem was conducted from 24 to 36 hours after the death. It is wrong that the time gap between fire and death is 24 to 36 hours. She was not

admitted in any hospital after the fire injury. When she was seen by that time she was dead. During investigation a laptop of the deceased Manak was recovered from the scene of occurrence and that was in on mode and on that laptop deceased Manak accessed internet and accessed facebook on 11.08.2011 from 8:00 am to 10:30 am. It is supposed that user name and password are known to the user himself only and their application can be accessed only by the same person. It is evident from this fact that the deceased Manak Bhinder was quite well upto this time as per the report of cyber crime branch lab. the deceased accessed the website relating to the suicide and how to commit suicide with firearms. As per the analysis of the CDR of the deceased of 11.08.2011 she called her old teacher named Nidhi Aggarwal. As per the statement of Nidhi Aggarwal she was alive upto that time as she recognized her voice very well.

Q5. The cousins (sons of maternal uncle) of lovely, sister-in-law of Manak were present on the day of her death, Whether they have been interrogated or not? Call details of their mob.phones be verified.

Ans-One cousin of Lovely, namely Gurwinder singh s/o Raghubir Singh r/o Ludhiana went to Dubai on the next day of the occurrence. The second boy Ravinder Singh s/o Jasbir Singh r/o Pudni Head Distt. Fathehabad (Haryana) has been interrogated and his statement has been recorded and as per the investigation/inquiry they were not having any mob.phones.

Q6. Who was the boy of carpenter caste who came present at the occurrence and he was a close one of the family of lovely he should be verified thoroughly.

Ans-The boy Jatinder Singh alias Rinku s/o Charan Singh caste carpenter r/o Pangota Teh. Patti was not present at the time of occurrence. He was a friend of Sarbjeet Singh husband of Manak Bhinder and was carpenter by profession. No allegation has been proved against him and

he is not linked with the death of Manak.

Q7. When the girl Manak died of gunshot injury at that time Lovely contacted her parents through phone. Their call detail from the day of occurrence to two months back be obtained and checked because the complainant suspects lovely, sister-in-law (NANAD) of Manak.

Ans-Call detail has been obtained and there is no reason of dispute between Lovely and Manak. The neighbours have been interrogated and these statement have been recorded and it is found that there was no dispute between them.

Q8. Lovely the sister-in-law of Manak leaves from her collage at 3:30 pm and she returned home at 3:45 pm on the day of occurrence and she informed the father of the deceased on phone at 3:54 pm that the condition of Manak is not well. Lovely leaves the van at the distance of 5 km by which she comes from collage on that day who took lovely to home. Is it possible to come home by 3:54 pm after leaving the college at 3:30 pm it be verified?

Ans-Lovely, the sister-in-law of Manak did not leave at 3:30 pm daily from International Nursing College Piddi (Seron). She used leave at 2:30. She came home by 3:54 pm because the distance from collage her village is 24 km. On that day, lovely reached home by a private bus. The statement of lovely has been recorded. The Principal of the college has submitted a written report.

Q9.Jagjit Singh, cousin of lovely said that he had cleaned the gun at the time of occurrence. He should be interrogated that what was the need to clean the gun?

Ans-As per the FSL report it is clear that Jagjit Singh has not cleaned the gun it was fired from the left barrel. The police has recovered one live cartridge and one empty cartridge. Jagjit Singh unloaded the gun so that no any untoward incident may happen.

Q10.Shri Gurpreet Singh Dhindsa reached at the occurrence before the local police reached their. Gurpreet Singh was

posted as Halqa DSP and he is the relative of accused party and he helped accused party?

Ans-Shri Gurpreet Singh Dhindsa (Detective) Tarntaran reached at the police of occurrence as per the order of Shri Manvinder Singh (PPS), SSP Tarntarn because Halqa DSP were not present and he was on duty out of his Sub-Division. Gurpreet Singh Dhindsa was DSP (Detective) and it was his duty to reach the place of occurrence. The statement of the investigation officer has been recorded to the effect that Gurpreet Singh Dhindsa DSP reached after the local police. No malafide intension has been found on the part of Shri Gurpreet Singh Dhindsa DSP and he has no relation with the accused party.

Q11.Lovely, the sister-in-law of Manak had seen the dead body of Manak first of all. How did she see? Is there possibility of some space from the single door?

Ans-The SIT has seen practically the door by closing it and pushing it. There appears some space in the gap between the door and the wall and from that space the dead body of the person lying on the bed can be seen because the bed is just in front of the door.

Q12.The maid of the home Seeta should be interrogated thoroughly regarding the circumstances of the family and any dispute between Manak and Lovely before the occurrence.

Ans-Seeta has been interrogated nothing has been found regarding any dispute between Manak and Lovely."

After the aforesaid exercise and as many as 4-5 inquiries, the police recommended the cancellation report, which is still pending for consideration before the authorities competent to recommend so.

The petitioner is obviously a dis-satisfied father and pleads for fair investigation into the death of his daughter.

It could have been easy to wish away the desire of the petitioner for a proper investigation by placing reliance on the reports,

which have come into being but for the glaring questions that have surfaced if the material on record is to be seen.

The investigation into such serious incidents where unnatural death has taken place has to be of inspiring standards and offer answers to the mystery that shrouds death and not shroud the mystery further to prevent unraveling the truth.

The photograph of the deceased, which has been placed on record (Annexure P-1) shows that the shirt, which the deceased was wearing was lifted higher up exposing her abdomen. The gun shot is just where about the navel would be. The investigation by the police has established that the length from the tip of the barrel upto the trigger was 32.5 inches. The length of the barrel is 30.5 inches. The deceased was a girl of 5'2" in height. The police has tried to project this as a case of suicide on the premise that she was visiting some sites on the internet, which give insights into methods/ manner of committing suicide.

The Court would find it hard to believe that a person of a puny stature with a long barreled gun with a trigger 32.5 inches away from the tip of the barrel would be able to commit suicide by keeping the barrel of gun to her abdomen and manage to pull the trigger unless she throws herself on the gun in a standing position on the floor and bend on it with the tip of the barrel on her abdomen in which case her body would not be lying prostrate on her back on the bed. The spread eagled position of the body would not suggest such a course but these are questions, which should have occurred to the Investigating Officer apart from other questions that the maid was present in the house and she did not mention about the sound of

gunshot fire, which would have a resounding noise. It is also absurd to notice that Tejinder Kaur upon discovering the dead body of the deceased presumed some problem of blood pressure to prompt her to massage the deceased, considering that the way the body was prostrated on the bed exposing the wound and blood which would exclude the possibility of any such absurd conclusion as one stated by Tejinder Kaur. These are few of the instances which raise a stink regarding the investigation and the suspicion of the Court regarding the testimony of Tejinder Kaur. This aspect also gets strength from the observations of the Inspector General of Police itself as he noticed as follows:

"That the SIT has investigated the case thoroughly and all the circumstances, statements and original investigation of the occurrence was perused is found that there were some lapses on the part of the investigation officers. Because the death of Manak Bhinder was caused with the fire arm and that was just five month after her marriage. The investigation officers should have registered the case immediately at that time but they failed to do so. The investigation officers should have investigated the case with scientific means and recover the DBBL gun, empty cartridge, blood stains clothes from the place of occurrence. the help of dog squads, finger print experts, photography and videography of the place of occurrence were required at that time. The investigation officer has shown carelessness and negligence and has not recorded the place of occurrence properly. Department inquiry of ASI Surjit Singh investigation officer and Insp. Lakhwinder Singh No.318 BR (SHO Ps.Chahla Sahib) is recommended for their carelessness and negligence for not taking the case seriously."

Evidently, much has been lost by way of scientific and

circumstantial evidence as the gun was removed as was also the empty cartridge and blood stain clothes from the place of occurrence.

The case itself was registered belatedly with an explanation that no complaint was lodged. The court would wonder as to whether in the wake of such a serious incident, the police would idle away till the time a formal complaint is lodged. The police has a duty to register a case and start investigating the matter with scientific precision and take action against those who had ventured to tamper with the scene of crime. They have rather permitted Jagjit Singh, who removed the gun from the place of occurrence and even take out the cartridges to go scot free. Is it not a case of destruction of evidence? The position of the gun, the finger prints on it and cartridges themselves would have gone a long way to answer the death of deceased and persons responsible for it.

The Court, thus, notices with grave concern that this is a typical case where attempt has been made to scuttle the investigation to offer benefits to the perpetrators of an offence whose names only the police can reveal if a proper investigation is carried out.

In the considered view of this Court, the whole matter needs to be investigated now from two aspects. One regarding the death of deceased its causes and the perpetrators involved. Second, the laxity of the police officials and whether such an investigation was motivated or is it attributed to sheer negligence on their part. The officers, who have dealt with the case in such a manner deserve no place in the police force. Although there is a mention that proceedings have been initiated against ASI Surjit Singh investigation officer and Insp. Lakhwinder Singh No.318 BR (SHO P.S.Chahla Sahib) but there

is nothing on record to indicate a final action taken against them.

The Hon'ble Supreme Court in ***Mithilesh Kumar Singh vs. State of Rajasthan, 2015(1) RCR (Crl.) 437*** has observed that the discovery of truth is ultimate purpose of any investigation and if the facts mandate that an investigation be carried out by an independent agency or any agency other than the one, which has subverted the truth then such a course should be unhesitatingly adopted.

In the considered view of this Court, this is a fit case where the investigation and all proceedings should be withdrawn from the Punjab Police forthwith and handed over to the Central Bureau of Investigation particularly when the petitioner has mentioned that the accused persons have been saved at the behest of politically powerful persons.

The petition is therefore, accepted with a mandate to the CBI to take over all the relevant record of this case from the Punjab Police instantaneously to carry out its own investigation.

The Court shall also be apprised as to what action has been taken against the police officials, who have been mentioned by the Inspector General of Police and referred in earlier part of the order, who subverted the investigation and destroyed the confidence of a citizen desirous of seeking justice from the system. The petitioner would also be entitled to a costs of Rs.2 lacs recoverable from the State of Punjab on account of tardy investigations, which on the face of it seems to be intended to conceal the truth and protect the perpetrators. Besides, he has been forced into the throes of an eminently undesirable litigation resulting from a complete failure of

public duty cast upon the respondents. The Inspector General of Police shall ensure that the aforesaid police officers are not posted in and around the area/district Tarn Taran so as to obviate the chances of any interference in the investigation to be carried out by the CBI.

31.07.2015
sonia

(Mahesh Grover)
Judge