

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
2015.02.02 13:31
I attest to the accuracy and
authenticity of this document

CRM No. M-27323 of 2010 (O/M)
Date of decision : 20.1.2015

Kanta Devi and another

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Vivek Sethi, Advocate, for the petitioners.

Mr. Nikhil K. Chopra, Deputy A.G. Punjab.

Mr. Samir Rathore, Advocate, for,
Mr. Sumeet Goel, Standing Counsel,
for respondent No. 5/CBI.

Mr. Gurcharan Singh, Advocate,
for respondents No. 8 to 16.

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

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KULDIP SINGH, J. (ORAL)

In the present petition, the petitioners have sought the directions of this Court for entrusting the case regarding custodial death of the deceased i.e. late Sandeep Kumar to Central Bureau of Investigation (CBI) and further direction to conclude the investigation expeditiously in an impartial and time bound manner.

It is stated that Sandeep Kumar was arrested by the police under Section 21 of the Narcotic Drugs and Psychotropic

Substances Act, 1985 (in short 'the Act') in FIR No. 199 dated 25.12.2009, registered at Police Station Morinda, District Rupnagar, for allegedly keeping in his possession 2 gram smack. On the same day, another FIR No. 200 dated 25.12.2009 was registered under Section 25 of the Arms Act, 1959 at Police Station Morinda, District Rupnagar, for keeping in his possession one spring activated knife.

As per the case history given by the learned counsel for the petitioners, the said Sandeep Kumar was produced before the learned Judicial Magistrate 1st Class, Rupnagar, on 25.12.2009 and was remanded to judicial custody till 4.1.2010 and thereafter, he was sent to jail.

However, Sandeep Kumar had developed some medical problem. On 26.12.2009, at 8:40 PM, he was taken to Civil Hospital, Ropar, and from there, was referred to PGI, Chandigarh. On 27.12.2009, he was brought back from PGI, Chandigarh, to jail. On 28.12.2009, he was again taken to PGI, Chandigarh, as per directions of the doctor and was re-examined at PGI, Chandigarh. Thereafter, he was brought back to jail. On 29.12.2009, at 6:00 PM, the health of Sandeep Kumar again deteriorated and he was taken to Civil Hospital, Ropar, from where at 1:00 AM i.e. 30.12.2009, he was sent to PGI, Chandigarh. Sandeep Kumar expired in PGI, Chandigarh, on 30.12.2009 itself at 11:30 PM. It is stated that it is a case of custodial death.

Respondents No. 1 to 5 in their reply stated that facts

have been mis-stated. It was stated that the deceased was patient of acute diabetic and he was smack addicted. He was referred to the PGI, Chandigarh, twice from 26.12.2009 to 30.12.2009. The deceased was getting the insulin injection to the extent of 24 unit and 16 unit in a day. The son in law of the petitioner No. 1 as well as the petitioner herself visited the District Jail, Ropar, vide entry Nos. 58 and 100 dated 26.12.2009 and 28.12.2009. Referring of the deceased to the Civil Hospital, Ropar, and to the PGI, Chandigarh, was not denied. The details of admission in the various hospitals was also mentioned. It was stated that there was no role of the police in the death of the deceased.

I have heard learned counsel for the parties and have also carefully gone through the file.

The facts as narrated by the learned counsel for the petitioners itself show that deceased remained in police custody only on 25.12.2009. He was remanded to the judicial custody on 25.12.2009 till 4.1.2010. The deceased suffered medical problem on 26.12.2009 itself and he was taken to PGI, Chandigarh. Then, on 28.12.2009, he was again taken to PGI, Chandigarh and then brought back to jail. Thereafter, his health again deteriorated on 29.12.2009 at 6:00 PM and he was sent to Civil Hospital, Ropar, and from there, he was sent to PGI, Chandigarh, where he expired on 30.12.2009 at 11:30 PM. The report of the PGI, Chandigarh, on file shows that it is a natural death. The deceased suffered a refractory

shock on account of respiratory failure. He was suffering from acute pulmonary edema.

On the last date, the police had also produced the autopsy report of the deceased. The post mortem was conducted at Civil Hospital, Rupnagar, in which it is stated that the tuberculosis was detected, leading to respiratory failure, as per Annexure-R-1/BB.

Learned counsel for the petitioners has argued that the report regarding tuberculosis is a new thing. However, the fact remains that sometime tuberculosis is not detected at the initial stage. There is nothing on file to show that the cause of death in PGI, Chandigarh and his treatment in PGI, Chandigarh, was manipulated. The fact remains that the deceased was not enjoying good health and he was taken to PGI, Chandigarh, thrice and ultimately he died in the hands of doctors at PGI, Chandigarh. Some error regarding the time of death in the reply filed by the State may be there, but the time of death is apparent from the case summary, submitted by PGI, Chandigarh. It being so, I am of the view that it is not a case of custodial death.

Accordingly, the petition is dismissed.

(KULDIP SINGH)
JUDGE

20.1.2015
sjks