

Criminal Miscellaneous No.M-27118 of 2013 (O & M)

Date of Decision: May 29, 2015

Rishi

..... 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. Aman Pal, 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 under Section 482 Cr.P.C. seeking issuance of direction to the respondents to take appropriate and legal action against the accused persons in case FIR No.265 dated May 30, 2013 under Section 302/34 IPC registered at Police Station, Samalkha, District Panipat, as well as for issuance of any other direction or appropriate order which

this Court may deem fit in the facts and circumstances of the case.

2. FIR in this case was registered under Section 302/34 IPC on the basis of statement of Rishi son of Asha Ram resident of Kiwana, which has been reproduced in Para 3 of this petition and reads as under:-

“Statement of Rishi s/o Asha Ram caste Gujjar r/o Kiwana Mob. 9050203154 stating that I am resident of above noted address and agriculturist by occupation. We have 4 brothers. Elder Hawa Singh expired 17/18 years ago. His wife Kela who resides her parental home at village Katesara Rohtak from many years. My brother has two issues one girl and one boy Rajesh aged 30 years. Girl is married. Boy is unmarried who lives with me. Who habitually drunkard and went out from house any days without any notice. On dated 29.5.2013 at 7 P.M. Rajesh went out. Today morning at about 8:10 AM I received information that my nephew Rajesh’s dead body is lying near Manurepit near temple on Shamlat Deh land of village Kiwana. After receiving information I along with Sarpanch Bhuneshwar and my brother Chhuar Singh came to spot and saw that there was bluish on neck and injury marks on chest. So I enquired on my level that in night my nephew Rajesh dranked with Gulab s/o Pala Ram Gujjar and Om Dutt s/o Ram Kumar Pandit R/O Kiwana. And they quarreled each others. I finally confirmed that my nephew has been murdered by above noted person. Legal action be taken against them. My statement is recorded, heard which is correct.”

3. The instant FIR was registered on May 30, 2013, but no action was initiated qua the persons against whom suspicion was raised by the complainant. None of them was arrested or interrogated at any point of time by the Investigating Officer. Ultimately, instant petition was moved.

4. Here, it would be pertinent to mention that Investigating Agency does not appear to be eager to solve the matter. Despite a fact that a serious offence like murder was committed but to the utter surprise, police remained inactive.

Though, reply in the shape of affidavit of Bali Singh, Deputy

Superintendent of Police, Samalkha, has been filed on behalf of the respondents, but there is nothing to show that any substantive step has been taken to solve the commission of the murder of Rajesh. It would also not be out of place to mention here that even the names of two suspects, Gulab son of Pala Ram Gujjar and Om Dutt son of Ram Kumar Pandit residents of Kiwana were unfolded by the complainant but they were neither arrested nor interrogated by the police. They were also not subjected any custodial interrogation to unearth the ramifications involved in this case. Rather, both the above named suspects were allegedly got subjected to polygraphy test from Forensic Science Laboratory, Madhuban, and said report is inconclusive.

5. In response to a query put to learned State counsel that in how many cases such a polygraphy test has been got conducted by the Investigating Officer in the similar circumstances without arresting the suspects and subjecting to custodial interrogation, it fetch no response. No doubt, it is the duty of police to investigate the matter entrusted to it but despite the commission of murder of a young person, police is not taking any effective steps. The court is also equally justified in monitoring the investigation if the police fails or shirks in discharging its duty which is apparently being done in this case.

Fair and proper investigation of the case is right of every citizen as well as that of any aggrieved person which is not likely to be expected from such an investigation.

6. Thus, this Court is of the considered view that it would be expedient and in the interest of justice that investigation of this case should be conducted by some other independent agency. Therefore, investigation of this case is transferred/entrusted to the office of Director General of Police (Crime), Haryana, to make it convenient to constitute a Special Investigating Team, incharge of which, should not be less than the rank of Superintendent of Police, to conduct fair and impartial investigation.

7. Needful be done within a period of three months from the date of receipt of a copy of this order.

8. Disposed of in the above terms.

9. For filing status report, list on 7.9.2015

10. 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