

262 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23398 of 2010 (O&M)
DECIDED ON: FEBRUARY 09, 2016

GURMEET KAUR

....PETITIONER

VERSUS

STATE OF PUNJAB & ORS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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?

Present: Mr. R.S. Bains, Advocate.
for the petitioner.

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

None for respondent No.2.

JASPAL SINGH, J

By virtue of this petition preferred under Section 482 Cr.P.C., Gurmeet Kaur widow of Milkha Singh has sought the transfer of investigation in case FIR No. 68 dated July 06, 2008 under Sections 336, 506 and 34 IPC and FIR No. 130 dated November 06, 2009 under Sections 304-A, 337, 338, 279 and 427 IPC registered at Police Station Sarhali, District Tarn Taran to an independent investigating agency like CBI for comprehensive investigation for the murder of three young persons including Prabhjit Singh and Karamjeet Singh, sons of petitioner aged about 20 years and 16 years, respectively, by

respondents No.2 to 4 in connivance with other private respondents.

2. In nutshell, the case putforth by petitioner is that she purchased a land measuring 5 kanals 13 marlas bearing khasra No. 107/22/1/2 (5-13) from its original owner Kashmir Kaur daughter of Pritam Kaur vide registered sale deed dated August 12, 2002 in the name of her two sons namely Prabhjit Singh a student of 11th class aged about 20 years and Karamjeet Singh, a student of 9th class aged about 16 years. After some days of the afore-said sale deed, Ranjit Singh and Dilbagh Singh sons of Gurnam Singh purchased the same land from Raj Kaur vide sale deed dated September 10, 2002. Since, the private respondents threatened to take forcible possession of the above-said land, she was constrained to file a civil suit for permanent injunction to restrain them from illegally interfering in her lawful possession. The said suit was decreed in her favour vide judgment and decree dated May 01, 2007. Then the afore-said persons by taking the law into their hands made an effort to dispossess her from the afore-said land on July 01, 2008. Though the matter was reported to police but it remained in-active. However, in pursuance of steps initiated by petitioner with the assistance of local community FIR No. 68 dated July 06, 2008 was registered but only under Sections 336, 506 and 34 IPC against respondents No.2 to 4. The police did not register FIR under the relevant provisions of Indian Penal Code. Especially in the circumstances that Ranjit Singh Rana etc. are extremely influential having history of committing crimes and leaders belonging to Shromani Akali Dal. Even the matter involved in the afore-said FIRs were not investigated earlier and no report under Section 173(2) Cr.P.C. had been presented at that time. Despite the fact that petitioner made a lot of efforts. But it would be pertinent to mention that as far as FIR No. 68 dated July 06, 2008 is concerned, a SIT was constituted, which conducted

investigation. SIT found the allegation to correct and report under Section 173(2) Cr.P.C. has already been presented which is pending disposal. As such it does not require any sort of transfer thereof.

3. So far as FIR No. 130 dated November 06, 2009 is concerned, the brief facts are that petitioner had been approaching different authorities as well as for police help for implementation of orders/judgment and decree passed by Civil Court but police was not inclined to offer any help. The harassment of petitioner continued and suffered various threats extended by private respondents including that petitioner should leave the village otherwise what she would do if her children do not remain alive. On the very fateful day i.e. November 06, 2009, Mandeep Singh from the mobile phone of Karamjeet Singh started making telephonic calls to Prabhjit Singh that both the brothers should come and take Karamjeet's mobile and also persisted to bring dinner for him (Mandeep Singh) in Grain Market at Nausheshra Pannuan. In the company of Sukhwinder Singh son of Jagir Singh, both the brothers left home at 7.00 PM by saying that they will return immediately after meeting Mandeep.

4. At about 10.10 PM, Paramjeet Singh, Sarpanch informed the petitioner that both of her sons have died and now she be happy as she has taken panga with powerful persons like Ranjit Singh Rana. She visited the spot after getting an information and then to hospital where dead bodies of both of her sons were lying subject to autopsy. Though, petitioner reached police station and disclosed all the above narrated facts to the police who gave her assurance to register a case on the basis of her statement and then she met Sukhwinder Singh son of Jagir Singh who was alive. He disclosed to the petitioner that it is a murder and FIR be got registered and further that he would stand as a witness.

But after some time he also failed to assist her. The version of the petitioner was never recorded by police, as was unfolded by her, thereafter police registered FIR No. 130 dated November 06, 2009 only under Sections 304-A, 337, 338, 279 and 34 IPC at Police Station Sarhali by introducing one Pishora Singh son of Bachint Singh as a complainant/informant. As the police was not inclined to take any action against the culprits, petitioner approached this Court by way of filing of instant petition.

4. In response to notice of motion, status report(s) was filed by way of affidavits of different officers during the pendency of instant petition. Ultimately, in compliance of order dated July 16, 2014 passed by this Court a Special Investigation Team (for short "SIT") was constituted by Additional Director General of Police, Crime under the supervision of Senior Superintendent of Police, Tarn Taran, Senior Superintendent of Police (Crime), Amritsar and Deputy Superintendent of Police (Detective), Tarn Taran to look into the grievances unfolded by the petitioner and to investigate the matter with further direction to submit its report. The SIT submitted its final report Annexure R-1. The conclusion arrived at by SIT runs at infra:

"From the above, as well as secret investigation conducted by the Special Investigation Team, witnesses produced by both the parties, statement of the Doctor who conducted post-mortem, the record of hospital and perusal of the case file of case FIR No. 130/09 u/s 304-A, 337, 338, 427 IPC, PS Sarhali, the SIT has reached the conclusion that the sons of petitioner namely Prabhjit Singh, Karamjit Singh s/o Milkha Singh and Jaimal Singh s/o Major Singh and Mandeep Singh @ Mallu s/o Satnam Singh @ Nachhattar Singh, used to help each other in agriculture work and were friends. On 6.11.2009, Mandeep Singh @ Mallu son of Satnam

Singh @ Nachhattar Singh, caste Jatt, r/o Dhotian, had taken his 1121 Basmati crop to the grain market, Naushera Pannuan. The 1121 Basmati crop of Karamjit Singh and Prabhjit Singh sons of Milkha Singh was to be harvested by them, from which Mandeep Singh and Prabhjit Singh used to talk to each other on mobile phone. Mandeep Singh told them that whenever, he gets free after selling his 1121 Basmati crop, he will inform them and whereupon, they will harvest there Basmati crop. On 6.11.2009, at about 6.00/7.00 in the evening Prabhjit Singh, Karamjit Singh, Jaimal Singh alongwith their another friend Sukhwinder Singh were going from their Village Dhotian to Grain Market, Naushehra Pannuan to meet Mandep Singh @ Mulla on motorcycle CT-100 bearing registration No. PB-46 D-5245 belonging to Jaimal Singh. When the aforesaid four persons were just half kilometer from Naushehra Pannuan, near the behak (residence) of Dalbir Singh, their motorcycle collided with some vehicle coming from opposite direction, due to which Karamjit Singh, Prabhjit Singh and Jaimal Singh received serious injuries on their head and all three died at the spot and Sukhwinder Singh who was accompanying them by riding pillion on the motorcycle also received injuries in the wrist. He also became unconscious due to injuries, which is evident from the statement of Sukhwinder Singh. Dalbir Singh son of Sawan Singh and Gurvinder Singh son of Avtar Singh former member Panchayat village Naushehra Pannuan, and the police party took injured Sukhwinder Singh in the Kar-Sewa Vehicle of Dera Baba Manjit Singh to Civil Hospital for treatment. The motorcycle was also badly damaged at the spot, which was also attested by the abovesaid. SI Sushil Kumar, In-charge, Police Post Naushehra Pannuan arranged for the vehicle and took the deceased to Civil Hospital, Tarn Taran, for post-mortem. The post-mortem of deceased Jaimal Singh s/o Major Singh, r/o Dhotian was conducted vide PMR No. CHTT/166/RSH/09 dated 7.11.2009. The post-mortem of deceased Karamjit Singh s/o Milkha Singh, r/o

Dhotian was conducted vide PMT No. CHTT/167/RSH/09 dated 7.11.2009 and post-mortem of deceased Prabhjit Singh, r/o Dhotian, District Amritsar, was conducted vide PMT No. CHTT/168/RSH/09 dated 7.11.2009 and Dr. Ritu Sharma, who conducted the post-mortem told that death has been caused due to severe injuries on the brain. The injuries on the body of deceased have been told to have been caused due to accident and these injuries have not been caused with an sharp edged weapon as these are blunt in nature. Paramjit Singh, former Sarpanch has stated that at about 8.00 p.m. He got the information about the accident and at the same time he further informed the petitioner-Gurmeet Kaur from his phone. The allegations levelled by the petitioner-Gurmeet Kaur that injured Sukhwinder Singh had confided in her that he would tell about the murder after 10 days, has been negated in the statement of Sukhwinder Singh, who during the investigation has stated that neither Gurmeet Kaur ever visited him in the Hospital nor she came to his house thereafter and nor Sukhwinder Singh has ever told her that it is a case of murder and not of accident. Due to accident the front portion of motorcycle was severely damaged, the repair of which was got conducted by Major Singh father of deceased Jaimal Singh r/o Village Dhotian from Mechanic Gurmeet Singh, owner of Randhawa Automobiles at Bus Stand Dhotian. This has been corroborated in the statement of Gurmeet Singh. Major Singh father of deceased Jaimal Singh has stated that his son had died in the accident. Petitioner Gurmit Kaur has suffered litigation with Ranjit Singh alias Rana of Vill. Dhotian which is still pending adjudication and prior to that one criminal case No. 68 dt. 6-7-08 under sections 336/506/34 IPC was also got registered at PS; Sarhali by the petitioner Gurmit Kaur against Ranjit Singh alias Rana, Judge Singh alias Jujju and its cancellation proceedings have already been approved by the concerned court and that is why the petitioner Gurmit Kaur is leveling false allegations of murder against the above said Ranjit

Singh alias Rana etc. whereas it is a case of accident. It is pertinent to mention here that at the time of occurrence Judge Singh alias Jujju was in Dubai and he was not available in India and this fact was duly confirmed from the passport of Judge Singh alias Jujju which was thoroughly checked by us and Ranjit Singh alias Rana was on his farm house at the time of occurrence and there was no evidence regarding the Mandip Singh alias Mallu with them. The petitioner Gurmit Kaur could not produce any cogent and convincing evidence before the SIT and no documents came before the SIT which shows that this is not an accident. So, from all the circumstances mentioned above and from the facts of the case it is crystal clear that this is a case of accident and not murder case. SIT has thoroughly investigated the matter from owners of the petrol pumps, owners of motor garages and even owners of Dhabas and suspicious truck drivers but no such clue was detected. Now SIT has come to the conclusion that aforesaid Karamjit Singh, Prabhjit Singh and Jaimal Singh were died on 6.11.09 at about 8 pm in an accident with an offending vehicle which hit their motor-cycle coming from opposite direction/side and this is not a case of murder. Offending vehicle has not been traced out. Therefore, criminal case vide FIR No. 130 dt.6-11-09 u/s 304-A/337/338/279/427 IPC, PS: Sarhali, Distt.Tarn Taran is declared as untraceable.”

5. A perusal of the afore-said report and conclusion arrived at by SIT transpires that it was not a murder involving the murder of three young persons. Rather, it was a result of vehicular accident and further that even the offending vehicle could not be traced out.

6. Learned counsel for the petitioner has contended that report submitted by SIT is just an eye wash and clearly reveals that though acted under the thumb of political leaders. Having lot of influence not only in the area but in the whole of Punjab being leaders/members of Shromani Akali Dal. It is only

due to their political influence the police did not take any action. He further contends that there is a cogent and convincing material which proves that it is not a case of vehicular accident. Rather, murder of three young persons in a pre planned manner. The injuries appearing on the dead bodies of the deceased do not reflect that these are result of vehicular accident being on the head and other parts of the body. Murder is converted into a vehicular accident by SIT for the reasons close to their chest. Even, Board of Doctors was also constituted by this Court to determine the nature of injuries and report submitted by Board is suggestive of the fact that injuries appearing on the persons of dead bodies are not the result of vehicular accident. Even these facts have also been ignored by SIT. An honest, sincere and dispassionate investigation has not been done by SIT, which requires transferring of investigation to an independent agency like CBI and for providing justice to a widow lady the live of whose both sons have been chopped of.

7. On the other hand, learned State counsel submits that all possible efforts have been made by SIT constituted in pursuance of orders passed by this Court, which has dealt with each and every aspect of the matter and has concluded that it was not a case of murder. Rather death of three young persons has occurred in a vehicular accident. Thus, there is no justification for further referring/transferring the matter to CBI or any other such agency.

8. After bestowing due consideration to the rival submissions made by learned counsel for the parties, this Court finds substance in the contentions putforth by learned counsel for the petitioner.

9. No doubt, it is well settled that if primacy is given to such designed or negligent investigation, to the omission or lapses by perfunctory investigation

or omissions, the faith and confidence of the public would be shaken not only in the law enforcing agency but also in the administration of justice in the hands of courts. But at the same time every citizen has got the right of fair and impartial investigation and it is the duty of investigating agency to find out the truth from falsehood and to cull out the nads and bring to truth those who are responsible for the crime.

10. Adverting to the facts of the case in hand three young persons have lost their lives. There are specific allegations levelled by petitioner and also supported by one of the witness namely Sukhwinder Singh, medical report submitted by the Board of Doctors constituted in compliance of order passed by this Court which opines that injuries are not possible in a vehicular accident and that there is a civil as well as criminal litigation regarding the land purchased by petitioner which is stated to be forcibly occupied by private respondents despite the operation of civil court decree dated May 01, 2007. Without commenting on the allegations levelled by petitioner in the petition least, which may not cause any prejudice to either of the parties, this Court is of the considered view that investigation of this case appears to be perfunctory and it is necessary that the matter be probed/investigated by an independent agency with a definite object to find out the truth and to take an action against the persons responsible for the crime.

11. In the light of what has been discussed above, instant petition is allowed and investigation of FIR No. 130 dated November 06, 2009 under Sections 304-A, 337, 338, 279 and 427 IPC registered at Police Station Sarhali, District Tarn Taran shall stand transferred to Central Bureau of Investigation to investigate the matter afresh within a period of 09 months from the date of

receipt of certified copy of this order. The SIT is directed to hand over the entire record to the Incharge, CBI within 15 days from the date of receipt of certified copy of this order. Till the matter is finally investigated by the CBI, proceedings if any pending before any court qua the afore-said FIR shall remain stayed.

12. While parting with this order, this Court intends to add that in holding that the matter needs to be re-investigated by CBI does not intend to cast aspersion on the State police or otherwise who investigated the matter at different stages.

FEBRUARY 09, 2016
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(JASPAL SINGH)
JUDGE