

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

CRM No.M-2032 of 2016 (O&M)

Date of Decision: August 31, 2016

Ratni Devi

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Bhagawat Dayal Sharma Advocate
for the petitioner.

Mr.Vikas Chopra, Deputy Advocate General, Haryana
for the respondent-State.

Mr.Parminder Singh, Advocate
for respondents No.4 to 7.

INDERJIT SINGH, J.

Petitioner Ratni Devi has filed this petition under Section 482 Cr.P.C. against State of Haryana and other respondents for directing respondents No.1 to 3 for fair investigation of case FIR No.237 dated 20.04.2015 under Sections 279 and 304-A IPC (wrongly written in petition as 379-A IPC), which is registered wrongly, as the case is relating to murder of Naresh Kumar as per statement of eye witness Surajpal injured.

Notice of motion was issued and learned State counsel as well as learned counsel for respondents No.4 to 6 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned

State counsel and have gone through the record.

From the record, I find that FIR in the present case was got registered by complainant Ramesh Kumar, who stated that on 19.04.2015 at about 2.00 A.M., a vehicle hit the motorcycle being driven by Surajpal on which his brother was pillion rider. His brother Naresh Kumar died and Surajpal was injured and dead body was kept in the Government Hospital, Samalakha. On the basis of this information, the FIR was registered on 20.04.2015. So called eye witness Suraj Pal made statement on 18.05.2015 before the police that on 19.04.2015 in the evening, he and Naresh Kumar were sitting at the grocery shop of Shamsheer Singh. When they both left for home, then in front of house of Jai Bhagwan, Raman, Billu and Gola were standing. When they reached on the next chowk on their motorcycle, then Gola, Balle Singh and Billu came from behind on a motorcycle and started quarreling and torn his shirt. It is further stated by Suraj Pal that when he and Naresh Kumar reached at Matu Ram Petrol Pump, Samalakha to take the oil at about 12.20 a.m., and while coming back, crossed the grain market, an Alto car crossed them and went ahead. After passing some distance, when they tried to over take the Alto car, the occupants of the car pressed their side and when the car is nearing the motorcycle, Gola, who was sitting on the back seat, gave a blow on the head of Naresh, who was sitting pillion on the motorcycle. Due to this, they lost balance and their motorcycle hit the electricity pole. After the accident, he (Surajpal) gave a telephonic call to Anil that they have met with an accident. After that Anil, Vijay and Monu came there and he told to Vijay that the boys who were in the Alto car gave blow to Naresh. After that police came in PCR vehicle, who got admitted them in the hospital but he did not tell about the Alto car

to the police. Naresh died in CHC, Samalakha and he (Surajpal) after taking his MLR, went to Maharaja Agersain Hospital. It is further stated by Surajpal that Monu, Krishan and Rajesh came along with him and he did not tell them about the Alto car and the boys, as he was unconscious at that time. It is also stated by Surajpal that he told about this incident to Ramesh Kumar after five days as he did not remember anything at that time.

After going through the statement of Surajpal, it is clear that no murder case is made out. The motorcycle hit the electric pole. As per the statement of Surajpal, he lost the balance. The only allegation alleged by Surajpal is that Gola, who was sitting on the back seat of Alto car, gave a blow to Naresh Kumar, who was pillion rider and they lost balance. This fact, itself, will not amount to murder.

Furthermore, Surajpal got recorded his statement on 18.05.2015 almost about one month of the occurrence. It is also in the statement of Surajpal that when the PCR came on the spot, he did not tell to the police qua the incident with Alta car occupants. It is also in his statement that he told Ramesh Kumar his friend, about the Alto car occupants after passing of five days.

It is argued that police has also filed untraced report in the FIR. It is in the reply filed by the State that 8-10 days after registration of FIR, the family of victim/deceased Naresh changed the version of FIR and alleged that present case was not an accidental case, rather, it was a murder case and levelled allegations against Raman, Rinku, Gola and Rajesh @ Billu. It is also in the reply that during the investigation, alleged persons joined the investigation and their CDR were also obtained. Several respectable persons of the village were also joined in the investigation.

From the version of the alleged persons, version of respectable of the village and from the perusal of the CDR, there was no legal evidence to justify that murder of Naresh was committed by the alleged persons. Moreover, from the perusal of the report of FSL, it was found that it was a case of accident.

Keeping in view the above facts and circumstances, I do not find it is a murder case.

Therefore, finding no merit in the present petition, the same is dismissed.

August 31, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No