

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

CRM-M-24667-2011 (O&M)
Decided on:-July 15, 2016.

Jaswinder Singh.

.....Petitioner.

Versus

State of Punjab and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment? Yes
2. To be referred to reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

Present:- Mr. M.S. Kang, Advocate
for the petitioner.

Mr. Arshdeep S. Kler, DAG, Punjab.

Mr. Krishan Sehajpal, Advocate
for respondents No.6 and 9.

Mr. H.S. Gill, Senior Advocate with
Mr. Nitin Rampal, Advocate
for respondents No.7, 8 and 10.

HARI PAL VERMA, J.

Petitioner Jaswinder Singh son of late Shri Buta Singh has filed the present petition under Section 482 Cr.PC seeking issuance of appropriate directions to respondents No.1 to 4 to entrust the enquiry into the death of his father Buta Singh to some independent agency on the ground that the

Punjab Police has failed to conduct proper enquiry.

Briefly stated, the petitioner has addressed his application dated 16.7.2009 to respondent No.2 against 7 persons complaining about the murder of his father and commission of fraud by sale of his land and withdrawal of money from the accounts of his father.

On the basis of complaint made by the petitioner, FIR No.301 dated 9.9.2009 under Sections 420/465/467/468/471/306/120-B IPC was registered at Police Station Division No.4, Jalandhar.

The respondent-State has filed various status reports including the status report dated 3.1.2014 by way of affidavit of Rahul S., IPS, Deputy Commissioner of Police, Jalandhar on behalf of respondents No.1 to 5. The status report refers to order dated 12.11.2013 passed by this Court which reads as under:

“It has been contended by learned counsel for petitioner that earlier Criminal Misc. No.M-29703 of 2009 for cancellation of anticipatory bail was filed in this case in which reply was filed on behalf of State, stating that it is a case of murder.

Registry is directed to attach file of CRM No.M-29703 of 2009.

It has been stated by learned counsel for respondent-State that investigation in this case has already been completed and final report under Section 173 Cr.P.C. has already been filed for the offences under Sections 420, 467, 471 IPC and though earlier offence under Section 306 IPC was added and

however, the same has already been deleted.

However, no reply has been filed despite direction of this Court giving status of investigation regarding death of Boota Singh, father of present petitioner.

State is again directed to file affidavit of concerned Senior Superintendent of Police regarding investigation of murder of father of petitioner before the next date of hearing, failing which he should remain present in the Court.

Adjourned to 08.01.2014.”

Learned State counsel on the strength of aforesaid status report has submitted that initially, the case was registered vide FIR No.301 dated 9.9.2009 under Sections 420/465/467/468/471/306/120-B IPC at Police Station Division No.4, Jalandhar. Thereafter, Paramjit Singh son of Bakshish Singh whose name was mentioned in the complaint, had submitted a representation seeking an enquiry into the matter. The said representation was entrusted to Gurdial Singh, Superintendent of Police/SC/ST Cell, Crime (Punjab) by ADGP, Crime, Punjab, who conducted an enquiry. In the enquiry, it was found that Section 306 IPC was not made out in the case and therefore, he recommended deletion of Section 306 IPC in the case. He has also recommended to delete the name of Paramjit Singh from the case. During enquiry, it was also found that father of petitioner, namely, Buta Singh was a very old man. He was an alcoholic and often used to remain ill. He had suddenly expired on 1.9.2009. The Enquiry Officer has also interacted/enquired from the respectables and other persons of the village,

who were present at the time of cremation of Buta Singh. The statements of those persons were recorded. No such evidence has come on record which may confirm that Buta Singh was compelled to commit suicide. Thus, no such evidence was available which may attract the ingredients of Section 306 IPC. After the enquiry, the report was approved by the then Commissioner of Police, Jalandhar and offences under Sections 420/465/467/468/471/120-B IPC were made out in the case against accused Baldev Singh, Balwinder Singh, Kulpreet Singh and Satnam Singh @ Satta. For these offences, a trial was conducted.

Mr. H.S. Gill, learned senior counsel for respondents No.7, 8 and 10 has produced certified copy of judgment dated 15.3.2016 passed by learned Chief Judicial Magistrate, (NRI Cases), Jalandhar in FIR No.301 dated 9.9.2009 under Sections 420/465/467/468/471/120-B IPC registered at Police Station Division No.4, Jalandhar, which is taken on record. As per the judgment, accused have been acquitted in the case.

I have heard learned counsel for the parties.

As referred in order dated 12.11.2013 of this Court, the fact that Section 306 IPC has been deleted in the case has already come on record and a categorical report has been submitted by the senior police functionary that Buta Singh was an old and alcoholic man, who often remained ill. He died natural death. So far as other offences in the case i.e. Sections 420/465/467/468/471/120-B IPC are concerned, learned Magistrate has

conducted a trial and while acquitting the accused vide judgment dated 15.3.2016 has observed as under:

“31. In view of the above, the prosecution has not been able to prove that on or before 09.09.2009 in the area of Nawi Kacheri Jalandhar all above named accused alongwith their co-accused namely Kulpreet Singh (since PO) conspired and agreed to do an illegal act i.e. got prepared one power of attorney of old person i.e. Late Buta Singh and sold their land and also withdrawn the money after the death of Buta Singh through his ATM Card which was in their possession fraudulently and further cheated the complainant Jaswinder Singh s/o Late Buta Singh and got prepared a false power of attorney by getting signature of the old person i.e. Buta Singh and sold his property in connivance with each other whereas who does not know the meaning and benefit of power of attorney withdrawn the money after the death of Butta Singh through his ATM Card which was in their possession fraudulently and as such all accused in connivance with each other cheated the complainant after inducement to the father of the complainant and thereby, they committed the offences U/s 420, 120-B of IPC.

32. Keeping in view the aforesaid evidence and discussion, the prosecution has failed to prove the guilt of accused, as such all the present accused stands acquitted of the charges framed against them. Case property, if any, be disposed off after the expiry of period of appeal or revision or subject to result of appeal/revision thereof, if any. Bail bonds of accused and surety bonds of surety of accused stand discharged from their liability under bonds. File be consigned to the record room and shall be

revived as and when accused Kulpreet Singh (since PO) is arrested or surrendered in the court.”

Considering the fact that the ingredients attracting Section 306 IPC were not attracted in this case and Section 306 IPC was rightly deleted at the initial stage, for the remaining offences, the accused have undergone a complete trial and have been acquitted by learned trial Court vide judgment dated 15.3.2016. The prosecution had failed to bring out any cogent evidence during the trial. Therefore, plea of the petitioner to entrust the enquiry into the death of father of the petitioner cannot be accepted.

Accordingly, the instant petition is dismissed.

July 15, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE