

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

**CRM-M No.28055 of 2011 (O&M)
Date of decision: June 01, 2016**

Vijay Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Sarabjeet Khaira, Advocate
for the petitioner.

JASPAL SINGH, J.

1. By virtue of this petition preferred under Section 482 Cr.P.C., petitioner-Vijay Kumar has sought issuance of direction to respondents No.2 and 3 for entrustment of the investigation/enquiry to CBI or some other independent agency other than the Punjab Police, in case FIR No.39 dated July 16, 2009, under Sections 302, 201, 34 of IPC, Police Station, Narot Jaimal Singh and further, to fix responsibility of the erring Punjab Police officials who are directly or indirectly involved in the murder of his son or those who are not taking any action against the accused.

2. The instant case stands registered on the basis of statement of Vijay Kumar-complainant which reads as under:-

"I am resident of aforementioned address and has installed saw mill at Bus Stand Fatehpur. I have furniture show room and have kept Sawraj Tractor and Trolley for carriage of wood. I have four children, three are sons and one daughter. Eldest is Jai Pal alias Jipsy, aged 21 years, who is also working with me at the saw mill and also drive Tractor. Other children namely Sharmila Devi, daughter, and younger sons namely Sunil Kumar and

Mukesh Sharma are studying. On 13.07.2009, I received a telephone call from Head Munshi Harjinder Singh of P.S. Narot Jaimal Singh that they have to take one Tractor to Court in case U/s 420 I.P.C. The Tractor is not starting and same has to be towed and taken to Pathankot Court and therefore, send your Driver and Tractor. I sent my Tractor and elder son Jai Pal alias Jipsi to Police Station. Subsequently, I was told by Head Munshi that the Tractor which was a case property was started on being towed by my Tractor and Jai Pal has taken the same to Pathankot and S.P.O. Parshotam Singh, P.S. Narot Jaimal Singh had accompanied him. When they reached near Ravi river, and were going towards Village Kiri Patan and reached near the boundary of village Mangial, then from village Kiri side, one girl namely Sonia son of Manohar Lal Saini met them. Jai Pal Stopped the tractor and asked her whether Johnny has come back to house, who replied in negative. After this the girl went towards village Manial side. Jai Pal also came down from Tractor and said that he would go back from this place and SPO Parshotam Singh took Tractor towards Pathankot side. In the meantime, one person on Scooter came from Bus Stand Kiri side and Jai Pal stopped the Scooter and in the presence of SPO Parshotam Singh, sat on the Scooter and went towards village Mangial, who has not come back home, till date. We were searching for him from our relatives and other friends. Today, we along with other villagers, and Sh. Chander Dev Ex-Sarpanch, along with my son Sunil Kumar, Mukesh Sharma, Nitin son of Dharam Pal, all residents of village Sunder Chak Mehta, were searching for my son. When we reached near the bank of river Ravi, we saw one dead body in the water. When we went near the body and it was found that same was of my son. There was injuries with sharp edged weapons on his neck. Earlier I was not suspecting anyone, but now I am sure that Sonia to whom my son was knowing earlier, because Sonia is a relative of our Driver Makhnu, and on account of this, I my son was visiting the house of Sonia and her parents were not happy with this, and keeping this grievance in mind, her father Manohar Lal, mother Gita Devi and others Uncle and Aunt, have killed my son in connivance with each other and have thrown the dead body in the canal. The girl Sonia met my son at

12.30 P.M. On 13.07.2009, my son was having Mobile Number 94784-21875 which is switched off since 13.07.2009. I have left Chander Dev, Ex-Sarpanch, near dead body and was going to inform you in the Police Station and you have met me on the way. I have got my statement recorded”.

3. The main allegation of the petitioner is that even after registration of aforesaid FIR, no action has been taken by the police.

4. During the pendency of the petition, even a Special Investigating Team (SIT) under the supervision of Superintendent of Police, Gurdaspur was formed to conduct investigation in the aforesaid FIR case. The latest status report dated 10.03.2016 has been furnished by way of an affidavit of Bhupinderjeet Singh, PPS, Superintendent, Central Jail, Patiala (the then Senior Superintendent of Police). A perusal of the said report reveals that all the allegations contained in the FIR were thoroughly and meticulously investigated from different angles but did not find any proof on file leading to the conclusion of commission of an offence by the persons named in the FIR. Consequently, untraced report has been prepared by the SHO Police, Narot Jaimal Singh, for submission thereof in the concerned Court.

4. No doubt, it is pretty settled that if primacy is given to such designed or negligent investigation, to the omissions 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. At the same time, every citizen has got a right of fair and impartial investigation and it is the duty of Investigating Agency to find out the truth from the falsehood and to bring

all real facts to fore and to book those who are responsible for the crime.

5. Thus, without commenting upon the allegations levelled by the petitioner in the petition, 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 independent agency with an object to find out the truth and to take action against persons responsible for the crime.

6. In the light of what has been discussed above, instant petition is allowed and investigation of FIR No.39 dated July 16, 2009, under Sections 302, 201 and 34 IPC, Police Station, Narot Jaimal Singh, shall stand transferred to C.B.I., Chandigarh, which shall investigate the matter afresh by a senior responsible officer, to be nominated by the Director, C.B.I., Chandigarh, under his direct supervision.

7. Special Investigating Team is directed to hand over the entire record to the Director, C.B.I., Chandigarh, within a period of 15 days from the date of receipt of a certified copy of this order. Investigation be completed within a period of 9 months thereafter.

8. Disposed of accordingly.

June 01, 2016
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(JASPAL SINGH)
JUDGE