

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 232

Criminal Miscellaneous No.M-29999 of 2015 (O & M)
Date of Decision: May 23, 2016

Babli

..... 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. Deepak Girotra, Advocate, for the petitioner.

Mr. Tanuj Sharma, Assistant Advocate General,
Haryana.

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Jaspal Singh, J

1. By virtue of this petition preferred under Section 482 Cr.P.C., petitioner – Babli has sought the transfer of investigation in the matter of custodial death of her husband Hari Om son of Ram Pali, resident of Nimadi, P.S. Bond Kalan, District Bhiwani.

2. Deceased Hari Om was arrested on July 3, 2014 in case FIR No.134 dated June 14, 2014 under Sections 452, 323, 341, 435, 506, 34 IPC,

Avin Kumar Police Station, Bond Kalan, District Bhiwani. On production before the
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court, he was sent in judicial custody for 14 days from July 3, 2014. Thereafter, he was brought in jail hospital on July 5, 2014 on the pretext of chest pain and was referred to Government Hospital, Bhiwani, on July 6, 2014, but he breathed his last en-route.

3. The petitioner has alleged that death of Hari Om was not natural which occurred in suspicious circumstances as is evident from medical record and post mortem examination. She has alleged that an enquiry was conducted by Additional Chief Judicial Magistrate, Bhiwani, who recorded the statements of various persons including relatives, medical staff, jail staff, jail inmates etc. The statements so recorded, reveal that death of Hari Om was not natural. As per the statement of Harikesh (EW-1), on the right side of back of deceased Hari Om, he had seen the marks of injuries/abrasions. The back of his body had turned bluish. It seemed that Hari Om was beaten up/tortured mercilessly during the period when he was in judicial custody. Om Parkash (EW-2) also stated that half of the back of body of Hari Om was reddish. To the same effect are the statements of other witnesses.

4. As per the post mortem report, face of deceased Hari Om was partially swollen. A brownish scabbed abrasion of size 2.5 X 1.5 cm was present over center of chin along lower border of Mandibular region across of mid line. Multiple brownish scabbed abrasions of pin head size of 1 x 0.5 cm were present over right antero-lateral chest over an area of 6 x 2 cm situated 13 cm below right nipple and 17 cm away

5. 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

administration of justice in the hands of courts. At the same time, every citizen has got a right of fair and impartial investigation. It is the duty of Investigating Agency to find out the truth from the falsehood and to bring all real facts to the fore and to book those who are responsible for the crime.

6. 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 person(s) responsible for the crime.

9. In the light of what has been discussed above, instant petition is allowed and investigation of matter regarding custodial death of Hari Om, husband of petitioner, shall stand transferred to Crime Branch of the State of Haryana, which shall investigate the matter afresh by a senior responsible officer, to be nominated by the Additional Director General of Police (Crime), Haryana, under his direct supervision.

10. The State is directed to hand over the entire record to the Incharge, Crime Branch, Haryana, 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.

May 23, 2016
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(Jaspal Singh)
Judge