

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM-M- 39193 of 2015

Date of Decision: April 04, 2016.

Tejpal

....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJAN GUPTA

Present: Mr. Gautam Dutt, Advocate
for the petitioner.

Mr.Sushil Gautam, DAG, Haryana.

Mr.Sumeet Goel, Advocate
for C.B.I.

Rajan Gupta, J (Oral)

Petitioner has invoked the inherent jurisdiction of this court seeking fair and impartial investigation pursuant to FIR No.283 dated 25.7.2015 registered under Section 307 IPC and Sections 30/54/59 of the Arms Act at Police Station, Faridabad Old.

An incident took place on 24.7.2015. Certain persons, who were travelling in a Ford fiesta vehicle, were intercepted by the police near kheri pul, Faridabad. The occupants were subjected to personal search. After the search, two persons namely Sunil and Anil got back into the vehicle, while Rahul and Mohit were outside. Stand of the State is that at that time a gun shot was accidentally fired by HC-Anand Singh which hit constable Parvesh Kumar and Mohit. The boy Mohit was seriously injured as the shot was fired from a 9 mm pistol. He is stated to be in coma at present. After this court issued notice in this petition, it appears

that police acted in haste and filed a challan under Sections 285/338 IPC making out a case for negligent conduct of the accused and causing grievous hurt by endangering life and personal safety of others.

Learned counsel for the petitioner has assailed this approach of the investigating agency. According to him, in the eventuality, police merely stopped the vehicle to make routine check, there was no point of taking out 9 mm pistol. Besides, the story of the investigation that it was a case of accidental fire appears to be improbable. State, however, stands by its version that the concerned Head Constable fired the shot accidentally. This court does not intend to express any opinion on the merits of the case at present. However, there are certain material aspects which apparently have not been investigated by the police. It is not clear whether the weapon which was used in the crime has been subjected to any ballistic examination. Whether any effort was made by the investigating agency to find out under what circumstances, the Head Constable had taken out his 9 mm pistol at the relevant time. There are serious discrepancies in the investigative process. Law is settled on the point that in case of killing of a person by the police, credibility of the administration of criminal justice system is affected. Such matters need to be properly and independently investigated so that truth can come out. (see **PUCL Vs. State of Maharashtra, 2014 (4) RCR (Criminal) 423**)

In the facts and circumstances of the case, it appears that an independent and objective investigation is necessary. It is on record that investigation already done by the Haryana Police has been endorsed by senior officer as well. Thus, no useful purpose would be served by entrusting investigation to an officer of Haryana Police. Under the

circumstances, further investigation of the instant case is handed over to the Central Bureau of Investigation. The concerned police of Faridabad district shall hand over the entire record of the matter to CBI within 10 days from today. In the meanwhile, proceedings pursuant to the challan already filed before the court at Faridabad be kept in abeyance. In case any infrastructural facility is required by the CBI, it shall be entitled to seek the same from the State Government.

Petition is disposed of with this direction. CBI shall submit a status report within six weeks from today.

(Rajan Gupta)
Judge

April 04, 2016.
BB