

CRR-1667-2015

DECIDED ON: DECEMBER 19, 2016

SARABJIT SINGH

.....PETITIONER...

VERSUS

STATE OF PUNJAB & ANR.

....RESPONDENTS...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. S.S. Ranghi, Advocate.
for the petitioner.

Mr. G.s. Khandewad, Deputy Advocate General, Punjab.

JASPAL SINGH, J

1. By virtue of instant petition preferred, petitioner has sought setting aside of impugned order dated 23.01.2015 whereby an application filed by the petitioner seeking further investigation in case bearing FIR No. 53 dated 08.5.2013, under Sections 302, 457 IPC, Police Station, Sudhar, District Ludhiana, has been dismissed.

2. The brief facts of the case are that three persons namely Shingara Singh Litt, his wife Manjit Kaur Litt, residents of Village Abbuwal, Police Station, Sudhar, District, Ludhiana and Surjit Kaur (mother of petitioner and sister-in-law of Shingara Singh Litt), resident of village Sarabha, District Ludhiana, were murdered. On May 07, 2013, Jaswinder Kaur Grewal, daughter of Shingara Singh made her routine telephonic call and had conversation with her parents. A few hours later, Pawanjit Kaur Litt (daughter-in-law) called from England and spoke to Manjit Kaur. Nothing seemed unusual or out of place in

their routine conversations. On 08.05.2013, Kiranjit Singh, husband of Pawanjit Kaur Litt, received a phone call from India at around 1.00 AM from his close friend to the effect that Shingara Singh, his wife Manjit Kaur and Surjit Kaur had been murdered. The family members from Canada and England immediately rushed to village Abbuwal after hearing the news.

3. Police visited the spot and registered the instant FIR. Dead bodies were sent to Civil Hospital, Sudhar for conducting post-mortem on May 9, 2013. As per the post-mortem report, all the injuries were alleged to have been caused by 'Dah' (a sharp edged weapon) which was recovered from accused – Aksh Kumar. During investigation, on May 22, 2013, police arrested one Aksh Kumar son of Puran Chand, resident of village Abbuwal, who is alleged to have made a confession statement that he committed the aforesaid crime.

4. After completion of investigation, final report under Section 173(2) Cr.P.C. was presented in the court of learned jurisdictional Magistrate. Charges were framed against the accused. During the pendency of trial, petitioner (son of Surjit Kaur – deceased) moved an application under Section 173(8) Cr.P.C.

5. Prior to that, petitioner preferred a petition under Section 482 Cr.P.C. before this Court seeking further investigation and direction to handover the investigation to Central Bureau of Investigation (CBI), which was dismissed vide order dated September 19, 2014 keeping in view the fact that challan had been presented; charge was framed against accused; and four prosecution witnesses had been examined. Aggrieved by the same, petitioner moved the Hon'ble Supreme Court. The Hon'ble Apex court disposed of his Special Leave Petition with the following observations:

“We do not find any ground to interfere with the impugned order. On a perusal of the impugned order, we notice that the High Court did not dissent to move an application for further investigation under Section 173 of the Code of Criminal Procedure if facts warrant so.

With the aforesaid observation and liberty, the special leave petition is disposed of.”

5. In these backdrop of facts, petitioner moved an application under Section 173 Cr.P.C. seeking directed to Investigating Agency to further investigate the case, which was dismissed by the trial court vide impugned order dated January 23, 2015.

6. The aforesaid order of trial court has been challenged by the petitioner through the instant petition.

7. Heard.

8. Undoubtedly, Surjit Kaur (mother of petitioner), Shingara Singh and his wife Manjit Kaur were murdered. Post-mortem was conducted on their dead bodies revealed several injuries, allegedly caused by sharp edged weapon. Reports of post-mortem are attached with the petition as Annexure P-2 to P-4.

9. Police arrested Aksh Kumar on the basis of a confession made by him. Aksh Kumar used to work in the house of deceased. Moreover, he is handicap and one of his arm does not function properly. Petitioner was not convinced with the investigation conducted by the police as 24 grievous injuries were inflicted on vital parts of all the deceased. To his mind, it was highly improbable that a handicapped man alone could inflict 24 injuries with a sharp edged weapon to three different persons. Moreover, Aksh Kumar was not medically examined by the competent Medical Officer after arrest. Circumstances showed that he could have been accompanied by other persons also. Infact, petitioner has named some more persons who might have involved in the incident due to annoyance by the family members of petitioner. These facts have not been investigated by the police.

10. 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.

11. Adverting to the facts of the case in hand, occurrence is alleged to have taken place on May 08, 2013 and three persons were brutally murdered. This Court, from a bare perusal of petition and arguments of learned counsel, finds that investigation conducted by the police is not upto the mark. To cull out real facts, this court is of the considered opinion that investigation of this case requires further investigation, that too, from some other agency.

12. 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.

13. In the light of what has been discussed above, instant petition is allowed and investigation of FIR No. 53 dated 08.5.2013, under Sections 302, 457 IPC, Police Station, Sudhar, District Ludhiana, shall stands transferred to Central Bureau of Investigation to investigate the matter afresh. The Investigating Team is directed to hand over the entire record to the Incharge, CBI 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. Till the matter is finally investigated by the CBI, proceedings, if any, pending

before any court qua the aforesaid FIR, shall remained stayed.

14. While parting with this judgment, this Court intends to add that in holding that the matter needs to be re-investigated by CBI, does not intend to cast aspersion on the State police or otherwise who investigated the matter at different stages.

December 19, 2016
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned: Yes/ No

Whether Reportable: Yes/ No