

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(CR). No. 177 of 2014

1. Nagesh Mishra, S/o. Kailash Nath Mishra, Aged About 60 Years,
 2. Smt. Usha Mishra, W/o. Nagesh Mishra, Aged About 55 Years,
- Both are R/o. Kedarpur Bhatti Road, (Mishra Colony), Bhagat Singh Ward No. 24, Ambikapur Civil & Reve. Dist. Surguja (C.G.)

---- Petitioners

Versus

1. State Of Chhattisgarh, Through : The Secretary, Department Of Home Affairs, New Mantralaya, Mahandi Bhawan, Raipur (C.G.)
2. Union Of India, Through : The Ministry Of Home Affairs.
3. Director, Central Bureau Of Investigation, New Delhi
4. Director General of Police, State of Chhattisgarh, Department of Home Affairs, Raipur (C.G.)
5. Superintendent Of Police Dist. Surguja, C.G.
6. Naresh Chauhan, Town Inspector, P.S. Gandhi Nagar, Ambikapur Dist. Surguja, C.G.
7. Vivek Rai, Police Constable No. 32, P.S. Gandhi Nagar, Ambikapur Dist. Surguja, C.G.
8. Neeraj Pandey, Police Constable No. 869, P.S.- Gandhi Nagar, Ambikapur Dist.- Surguja, C.G.
9. Rakesh Sharma, Police Constable, Police Station -Gandhi Nagar, Ambikapur Dist. Surguja, C.G. Presently transferred At P.S. Patthalgaon Dist. Jashpur, C.G.
10. Smt. Mayanka Mishra, W/o. Gyanesh Mishra, Aged About 28 Years, D/o. Baban Rai, R/o. Bauripara Shikari Road Ambikapur Dist. Surguja CG
11. Ku. Sarita Chauhan, D/o. Bahadur Chauhan, R/o. C/o. Deepak Bangali, Vill. Chathirma Ps. Gandhi Nagar Ambikapur Dist. Surguja CG.

-----Respondents

For Petitioners	: Mr. A.N. Bhakta, Advocate
For Respondent/State	: Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

22/08/2017

Heard.

1. Counsel for the petitioners submits that petitioners are father and mother of the deceased Gyanesh Mishra. The incident took place on 27.04.2014, when deceased was found in severely injured conditions in village-Chatirma, District – Ambikapur. Deceased was admitted to hospital for treatment, who succumbed to the injuries and died on 08.05.2014. Morgue intimation was recorded in P.S. - Pandri, District – Raipur, in which it is mentioned that deceased suffered injuries on account of falling of tree on his head. It is submitted by the counsel for the petitioners that the contents of this information appears to be suspicious, as the employee of the Balaji Hospital, who recorded this information could not have been a witness to the incident that took place with respect to the deceased. In the inquest proceeding, it is mentioned that it has come of the knowledge of the Panch witnesses that deceased was beaten by 2-3 associates of respondent No.11.
2. Counsel for the petitioners made a written complaint to the Superintendent of Police, Sarguja alleging in it that there is a possibility that respondent No.11 along with 7, 8 & 9 hatched a conspiracy to murder the deceased. A phone call was received in

the evening of 27.04.2014 by the petitioner No.2 from the deceased that somebody is going to kill him and later on a phone call was received by the sister of the deceased when the deceased told her that respondent No.11 along with respondent No.7 & others had abducted and assaulted him. Similarly deceased communicated to his friend Manish Kumar Ravi. Later on deceased was brought in seriously injured conditions to the hospital in a police van and false information was given that deceased got injured due to falling of tree. Prayer was made for investigating the case and for prosecuting the culprits.

3. It is submitted that no action has been taken by respondent No.1 to 6 to register case of murder, on the contrary, later on one FIR was lodged on 16.07.2014 registering offence under Section 304-A of I.P.C. against the deceased himself. It is submitted that clearly it is a case, in which the police officials have favoured the real culprits i.e. respondent No.7, 8 & 9, who are police constables and manipulated the case of murder to the case of accident. Prayer has been made to pass order for investigation of the case by an independent agency.
4. Counsel for the State has objected to the submission made. It is submitted that investigation has been done by the police station – Gandhi Nagar in Crime No.147/2014, registered for offence under Section 304-A of I.P.C. Witnesses have been examined and according to the statement of eye-witnesses in this case, the death of deceased had been purely accidental, hence for these reasons, petitioners have no case.

5. I have heard the learned counsel for the parties and perused the documents submitted in the petition as also the case diary of Crime No.147/2014 of Police Station- Gandhi Nagar, District – Sarguja.
6. Considering all the submissions made and also considering on the documents submitted and on specifically referring to the case diary, it appears that deceased was admitted in Balaji Super Specialty Hospital on 28.04.2014 i.e. just after the date of incident and in it the reason of injury was mentioned as falling of tree/road accident, by the person Dinesh Mishra of Kedarpur, who brought the deceased for admission, who happens to be uncle of the deceased. In the morgue enquiry, Police Station – Gandhi Nagar recorded the statement of Dinesh Mishra, the uncle of the deceased, Nagesh Mishra, father of the deceased, Ajesh Mishra another uncle of the deceased on 08.05.2014, who stated that deceased suffered accidental injuries due falling of tree but later on they have received information that respondent No.11 along with 2 - 3 associates had assaulted the deceased. No source of information was disclosed by the witnesses. Petitioner No.2 stated before the police that she received mobile call from the deceased, who stated that some persons are beating him. Similar phone call was received by Manish Kumar Ravi. Statement of these witnesses does not name any persons. In another statement of Ritu Rai, sister of the deceased, she has stated that she called on mobile of her brother, the deceased, who was crying and saying that brother of Mayanka, respondent No.10 is beating him and going to kill him. This is the only evidence that too by way of information received on phone call.

7. A number of witnesses have been examined by the investigating officer in this case namely Maniyaro Bai, Suraj Gupta, Sarita Bharati, Sunil Kumar Mahto, Komal Singh, Deepak Mandal, Pradeep Mandal, who have stated that the deceased met with an accident while riding his motor cycle when he collided with fallen branch of tree. It appears that every effort has been made in the investigation to find as to cause of death of the deceased. Hence, merely on the suspicion raised by the petitioners, no order can be passed in this case to specially investigate the case by any independent agency. It appears that petitioners and deceased had some strained relationship with respondent No.10, who happens to be the wife of the deceased. Hence for these reason, this petition is found to be without any substance, which is dismissed accordingly at the motion stage.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram