

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11263-2017 (O&M)

Date of decision: 22.11.2017

Harsimran Kaur Chadha

.....Petitioner

versus

UT Chandigarh and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Petitioner in person, Dr.Tejpreet Chadha, sister of deceased and Dr.Rahul Kapoor, brother in law (jija) of deceased with Mr.Ankur Malik, Advocate
Ms.Ashima Mor, APP for UT Chandigarh

1. *Whether Reporters of Local Newspapers 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?*

Kuldeep Singh, J.

Petitioner Harsimran Kaur Chadha has filed the present petition under Section 482 Cr.P.C. for transfer of the inquiry into the complaint dated 27.7.2016 (Annexure P3) given by her regarding murder of her only son Gagan Chadha to any independent agency i.e. Central Bureau of Investigation.

It is claimed that on 27.7.2016, Gagan Chadha left the home in the morning by telling that there are some persons coming from Delhi whom he has to meet. In the afternoon, Gagan Chadha along with other persons took a room in Anthia Hotel, Sector 34-A, Chandigarh. It also comes out that Gagan Chadha was accompanied by his two friends namely, Arun and Amit. At night Gagan Chadha developed some problem. Therefore, Amit

went to Harsimran Kaur Chadha mother of the petitioner to call her. When the petitioner arrived at the hotel, Gagan Chadha was found unconscious. Amit stayed in the room, whereas Arun along with the petitioner took Gagan Chadha to Inscol Hospital, Sector 34-A, Chandigarh, where he died. DDR No.10 dated 27.7.2016 was registered at Police Station, Sector 34, Chandigarh. Petitioner claimed that as per CCTV footage, two persons came out of the adjoining room and went inside the room of Gagan Chadha and after 10-15 minutes, those two persons vanished. Allegations are that Gagan Chadha was in fact murdered and it is not a case of natural death.

The State, in the initial reply dated 24.8.2017, reproduced the complaint made by the petitioner before the police, wherein she had requested the police to ascertain all the reasons behind the death of her son and lodge an FIR. It was stated that on the receipt of complaint dated 27.7.2016, a thorough inquiry was conducted. It was found that an intimation was received in Police Station Sector 34, Chandigarh from Inscol Hospital, Sector 34-A, Chandigarh that a person Gagan Chadha has been admitted in the hospital in unconscious condition. On the receipt of information, DDR No.10 dated 27.7.2016 was recorded. When the police reached the hospital, Gagan Chadha was found to be unfit to make a statement and after sometime, he was declared dead. Doctors prepared death summary, in which, they observed that there is smell of spirit and no sign of external injury. Immediate cause of death is Cardio Respiratory Arrest-Severe Respiratory acidosis. It is further stated that postmortem of the dead body was got conducted from the board of doctors of Government College and Hospital Sector 32, Chandigarh. The viscera of the deceased was also sent to Director, CFSL, Sector 36, Chandigarh to ascertain cause of

death and thereafter, dead body was handed over to legal heirs for last rites. Police recorded the statements of Jasprit Singh, Gurnam Chadha and Harsimran Kaur Chadha in Proceedings under Section 175 Cr.P.C. During the inquiry, statements of Amit and Arun were also recorded from which, it came out that Gagan Chadha along with his friends Amit and Arun checked in Anthia Hotel, Sector 34-A, Chandigarh on 26.7.2016 around 12.15 -12.30 PM in room No.202. All the said persons furnished their identity, giving address of Delhi. Amit and Gagan Chadha were engaged in talks and planning to open an Immigration Office at Sector 34, Chandigarh. It further came out that Gagan Chadha offered drinks to Amit and they both consumed alcohol. Gagan Chadha consumed drugs also. In the meanwhile Arun, who was also known to Gagan Chadha, came there and thereafter all of them went to bed. Gagan Chadha woke up and again consumed drugs. After sometime, Gagan Chadha felt anxiety and his condition became abnormal. On noticing this, Arun went to the house of the petitioner and brought her to Anthia Hotel, Sector 34-A, Chandigarh and thereafter Arun and Amit lifted Gagan Chadha and took him to Inscol Hospital. Thereafter, Amit proceeded to Delhi. It is further stated that CCTV footage of Anthia Hotel, Sector 34-A, Chandigarh was scrutinized in the presence of mother of the deceased but nothing suspicious was noticed. It is further stated that the doctor while giving final opinion regarding death, made the following observations:-

As per CFSL report No.CFSL C 1557.16 TOX 255.16.2712 dated 22.11.2016 various laboratory test such as colour test, chromatographic analysis and Kozelka and mine method were carried out with the Exhibits 1, 2, 3, 4 and 5 for the detection of common insecticide, volatile, metallic or inorganic and sedative poison in them. The results thus obtained have been

analyzed as given below:

- 1. Ethyl Alcohol has been detected in Exhibits 1, 2, 3, and 4.*
- 2. The concentration of Ethyl Alcohol in Exhibits was found to be 93.84 mg percent.*
- 3. Morphine Codeine and Caffeine have been detected in Exhibits 1, 2 and 3.*
- 4. Morphine and Caffeine have been detected in Exhibit-4.*
- 5. None of the above said common poisons has been detected in Exhibits-5.*

As per histopathology report No.GMCH Path 02016.1781 dated 16.9.2016 impression. Heart-Chronic ischaemic heart disease. Portion of both lungs-Bronchopneumonia. Aspiration type. As per report of histopathology and Chemical Examination there was presence of Ethyl Alcohol and narcotics as mentioned. The cause of death in this case in our opinion is cardio respiratory arrest as result of aspiration of gastric contents in the presence of alcohol and narcotics substance which is sufficient to cause of death in ordinary course of nature.

Therefore, doctor opined that death is due to cardio respiratory arrest as a result of aspiration of gastric contents in the presence of alcohol and narcotics substance which is sufficient to cause death in ordinary course of nature. According to the police investigation, no other mark of injury was found on the dead body. Final inquiry report was submitted.

Vide order dated 31.8.2017 passed by this Court, the police was requested to inquire the matter from the following angles also:-

- 1. Gagan Chadha has history of enemies and his life was under threat.*
- 2. When Gagan Chadha was taken to hospital, Amit and Arun left without disclosing to the doctor as to what drug was allegedly consumed by Gagan Chadha so that ante-dote could be given. With the result that proper treatment could not be*

given and he died due to respiratory cardiac arrest.

3. Whether the drug was administered to Gagan Chadha in the alcohol by deception?

4. Whether Gagan Chadha was a drug addict as it was alleged that he took drugs in the alcohol and later on, he also consumed drugs at midnight?

5. The CCTV footage shows two suspicious persons were entering the room of Gagan Chadha. It needs to be examined, who are they and what was the need for them to enter that room?

6. It is also be examined if somebody is unconcious or under the influence of liquor, then even without force whether the drug can be administered to him?

7. It is also to be examined that there were scratch marks on the I-pad of the deceased, showing that some struggle might have taken place in the room.

In pursuance to the said order, an affidavit dated 13.11.2017 of Nilambari Jagadale IPS Senior Superintendent of Police, Chandigarh was filed, in which, it was stated that a thorough inquiry was marked to DSP South on 11.9.2017, who further marked it to SHO Sector 34. It is further stated that as a result of inquiry, deceased died due to cardiac arrest due to consumption of alcohol and narcotics. Gagan Chadha has history of consumption of drugs and on the fateful night, he consumed drugs along with alcohol. As per medical opinion of the Medical Officer of GMSH Sector 16, consumption of 93.8 mg of alcohol (amount as per the PMR was found in blood of Gagan Chadha) along with narcotics, can cause unconsciousness in combination. Doctor further opined that possibility of drugs being administered to the deceased forcibly is not likely as there is no external mark of injury found in the postmortem of dead body. It was further stated that Gagan Chadha had a criminal record and six FIRs were

registered against him. He was arrested in two cases. Gagan Chadha himself never reported any incident regarding threat received by him. CCTV footage has been thoroughly examined and no suspicious person has been seen entering or exiting the room in which Gagan Chadha and others were staying. It is stated that whereabouts of Amit are now not known but he had joined the inquiry at initial stage. It is further stated that I Pad of the deceased was not handed over to the police. Along with the report, status report submitted by SHO Sector 34, Chandigarh was also attached. Other documents in support of the reply were also attached.

I have heard counsel for the petitioner, learned APP for UT Chandigarh. On their request, petitioner in person, Dr.Rahul Kapoor -brother-in-law of the deceased (Jija), Dr.Tejpreet Chadha- sister of the deceased were also allowed to address the Court.

The State as well as the complainant/ petitioner produced pen drives, stated to contain CCTV footage and have been examined by this Court.

As per postmortem report, no mark of injury was found on the dead body.

The medical report, which has been reproduced above and copies of which are on file shows that the deceased died due to consumption of alcohol and narcotics. 93.84 mg alcohol was found in the blood as per postmortem report. It also comes out that Central Forensic Science Laboratory examined the contents of stomach, small intestine, small portion of liver, spleen and that of kidney and of blood and thereafter, gave the opinion of presence of Ethyl alcohol as well as morphine, caffeine and cocaine. Report further shows that police also sent one glass, some

cigarette buds, one currency note of Rs.10/-, two polythene pouches to Forensic Science Laboratory for examination. Even from the glass, contents of alcohol were found. Contents of heroine, morphine, cocaine and caffeine were also detected from the currency of Rs.10 and two pouches and some cigarette buds. The histopathology report was also submitted.

Learned counsel for the petitioner, assisted by the sister and brother-in-law of the deceased, has argued that the deceased has no history of illness and that he will never consume alcohol. It is alleged that alcohol was forcibly fed. It is further alleged that even the narcotics were forcibly fed on him. For this, the finger of accusation is pointed on Amit and Arun and two persons, who are stated to be shown in the CCTV footage. It is further argued that the deceased was receiving threats from some unknown persons and that as a result of conspiracy, either by way of force or by way of deception, he was administered narcotics and alcohol, resulting in his death.

I have considered the submissions of both the parties. The medical reports make it clear that deceased died due to consumption of alcohol and narcotics, which resulted into cardiac arrest. Some FIRs were also registered against him and he remained in Burail Jail, where he was got medically examined due to illness. Postmortem report makes it clear that no force was used on the deceased.

Now, other possibility left is only of deception. Alcohol from itself nature cannot be administered by deception. Deceased was resident of House No.687, Sector 20-A, Chandigarh and according to the petitioner, on 27.7.2016, Gagan Chadha left home in the morning and thereafter, checked in a local hotel. However, he is found to have checked in the hotel on

26.7.2016 along with his friends Amit and Arun. There is no reason for him to stay in the hotel when he had a local residence. It also comes out that the deceased was doing the work of Immigration, for which, he was facing allegations.

Learned counsel for the petitioner has argued that I Pad was having scratch marks and the police has not taken the same into consideration. Scratch marks, if any, found on the I Pad, does not mean that there was a scuffle of the deceased with anybody in the absence of any mark of scuffle on the dead body of the deceased Gagan Chadha.

Now, it is to be seen as to whether the drug can be administered on the deceased by deception?

As discussed above, the presence of narcotics on Rs.10 currency note shows that the same was used in administering the drug. This itself rules out the possibility of it being fed by deception. The friends of the deceased have stated before the police that the drug was consumed by the deceased by putting the same on one currency note of Rs.10/-. The same was recovered from the spot. If the deception is practiced than the convenient way was to mix it in the alcohol and not separately put in Rs.10 currency note.

So far as pen drives produced by both the parties are concerned, examination of the same shows that there is no CCTV footage in the said pen drives. In the pen drive produced by the petitioner, there is one audio clip, in which, the deceased is allegedly being threatened.

Since, there is no evidence of foul play in the death of Gagan Chadha, therefore, I am of the view that the police has properly investigated the case. Hence, the plea to register the FIR of murder and transfer the

investigation to some other agency i.e. Central Bureau of Investigation, is without any merit. Consequently, the present petition stands dismissed.

22.11.2017
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No