

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-17560-2013
Date of decision :06.11.2017**

Angrej Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE H.S. MADAAN

Present : Mr. Mohinder Kumar, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

Ms. Ramandeep Kaur, Advocate for
Mr. Sumeet Goel, Advocate
for CBI-respondent No.6.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. has been filed by petitioner - Angrej Singh praying for transfer of investigation of the case registered vide FIR No.283 dated 09.11.2012 under Section 363 IPC (Sections 302, 201 IPC added later on) relating to kidnapping and murder of his minor son Gurkirat Singh alias Gora aged about 9 years to Central Bureau of Investigation (for short - 'CBI') i.e. respondent No.8 for the

reasons that respondents No.3 to 7 Officers of Punjab Police have failed to arrest the culprits despite having passage of considerable time and the petitioner has lost faith in the local police of Amritsar and for that matter Punjab Police for its failure to solve the case.

On notice respondents appeared, reply to the petition has been filed on behalf of respondents No.1 to 5, therein it has been conducted that Commissioner of Police, Amritsar city had constituted a Special Investigation Team vide order dated 21.11.2012 headed by Additional Commissioner of Police Amritsar City, who had conducted detailed independent impartial investigation in the case, during course of which two suspects namely Harpal Singh alias Bhalla, Jaspal Singh alias Jassa, besides 20 / 22 other persons who were suspected to be involved in the incident were interrogated but not clue could be found regarding kidnapping and murder of Gurkirat Singh alias Gora son of the petitioner. It is denied that the local police is not arresting the culprits or that they are not investigating the matter properly. Status reports have been placed on file from time to time.

I have heard learned counsel for the parties, besides going through the record and I find that no laxity on the part of Punjab Police is shown to be there in carrying out investigation of this case. It comes out that the suspects were joined in the investigation, polygraph tests were performed on Jaspal singh alias Jassa and Harpal singh alias Bhalla, who were the key suspects, however, without any fruitful result. Since the petitioner was not satisfied with the investigation carried out through Superintendent of Police (D), Gurdaspur, but when posted as ADC

(Amritsar) had headed the Special Investigating Team was summoned to the Court, he stated that the team had made every efforts to crack the case using all scientific means but no clue have been found. The complainant had submitted that some suspects named by him had not been interrogated properly.

State counsel has made a submission that police authorities were ready and willing to question the persons named by the complainant, under orders of this Court a Special Investigating Team was constituted to join the persons named as suspect by the complainant in the inquiry and to solve the murder case. The status report was then filed to intimate that Special Investigating Team was constituted which had examined the matter in detail joining the petitioner in investigation and question the person as suspect named by him, however, nothing concrete came out of that and no incriminating evidence could be found against them, as regards a suspect namely Gagandeep Singh, he is stated to be residing in America as such could not be associated in the investigation.

Learned counsel for the CBI has referred to citation **State of West Bengal and Others vs. Committee for Protection of Democratic Rights, West Bengal and Others, 2010(3) SCC 571**, wherein the Apex Court has observed as under:-

“Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by Articles 32 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these Constitutional powers. The very plenitude

of the power under the said Articles requires great caution in its exercise. In so far as the question of issuing a direction to the CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise the CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations. ”

Learned counsel for the petitioner has referred to citation **Dharam Pal vs. State of Haryana and Others 2016 (1) RCR (Criminal) 926** in support of his contention that investigation be transferred to CBI, however, I find this authority is not applicable to the incident having different facts and circumstances since here the investigation is shown to have been conducted in a fair manner by the police.

Learned counsel for the petitioner could not convince me as to

how the local police is not carrying out the investigation properly, rather I do not find any fault or lapse in the investigation so being carried out. As regards request for transferring the investigation to the CBI, in my considered opinion no ground is made out to do so. The request might have carried some weightage if there were allegations that the suspects are influential persons and the local police is not carrying out the investigation properly under their influence or that they are interfering with the investigation. This certainly not the case here, the local police is shown to have used scientific means of investigation also to crack the case but to no effect. Under these circumstances the petition lacks merit and is bound to fail and the same is dismissed accordingly. However, while parting with the discussion it is directed that the incident be kept in mind while investigating other cases by the local police and if during course of investigation of some other criminal case a clue is found as regards the present case then the matter be investigated afresh in the light of that clue and things be taken to its logical end.

06.11.2017*Gaurav Sorot***(H.S. MADAAN)
JUDGE**

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**