

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

**CRM-M No.17559 of 2017 (O&M)
Date of decision : November 06, 2017**

Surender Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Pratham Sethi, Advocate for the petitioner.

Mr. Pawan Garg, AAG, Haryana.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to constitute a Special Investigation Team in case FIR No.257, dated 25.12.2013, registered at Police Station Behal, District Bhiwani, under Sections 302 read with Section 34 IPC, though in this case, challan has been presented under Sections 279 and 304-A IPC.

Short facts, which are required to be noticed are that on the statement of petitioner Surender Singh, the aforesaid FIR was registered against Sandeep S/o Hawa Singh and Mukesh S/o Umed, regarding the death of Kuldeep Singh alias Balli, son of the petitioner, who was stated to have been crushed under the tractor. During investigation, it comes out that both the accused as well as deceased Kuldeep Singh were coming on tractor and Kuldeep Singh fell down from the tractor and crushed under the wheels of the tractor. Accordingly, the challan was presented under Sections 279 and 304-A IPC against Mukesh S/o Umed only. Co-accused Sandeep S/o

Hawa Singh was made witness.

Being not satisfied with the investigation, the petitioner moved an application under Section 173(8) Cr.P.C. before the trial court for further investigating the matter. The learned Sub Divisional Judicial Magistrate, Loharu, after noticing some serious lapses in the investigation, vide order dated 17.12.2014 ordered for further investigation and allowed the application.

The petitioner was not even satisfied with the order passed by learned Sub Divisional Judicial Magistrate, Loharu and moved to the court of learned Addl. Sessions Judge, Bhiwani, for investigating the matter by SIT/CBI or Superintendent of Police, Bhiwani. The said request was declined by learned Addl. Sessions Judge, Bhiwani, vide order dated 10.03.2017 (Annexure P-5), stating that there is no illegality or infirmity in the order dated 17.12.2014 (Annexure P-4) passed by the learned Sub Divisional Judicial Magistrate, Loharu. Thus, the petitioner has moved the present petition before this Court.

The State in its reply has reiterated its stand, while stating that deceased Kuldeep Singh @ Balli along with Mukesh and Sandeep had gone to Behal for purchasing fertilizers. At about 5.15 p.m., they were returning from Behal and Mukesh was driving the tractor in a rash and negligent manner. As a result of which, Kuldeep Singh @ Balli fell down from the tractor and crushed under the wheels of the tractor. Therefore, the challan was presented under Sections 279 and 304 A IPC against Mukesh Only. It is further contended vide order dated 17.12.2014 (Annexure P-4) passed by learned Sub Divisional Judicial Magistrate, Loharu, ordered to further investigate the matter. Further investigation was carried out by the S.H.O.,

Police Station, Behal. No new fact was discovered to substantiate the murder charges.

I have heard learned counsel for the parties and have also carefully gone through the case file.

Learned counsel for the petitioner contends that local police is helping the accused and that proper investigation is not being carried out. Learned Sub Divisional Judicial Magistrate, Loharu in the order dated 17.12.2014, noticed some lapses in the investigation. The S.H.O., Behal, conducted further inquiry and found no new facts.

I am of the view that since the learned Sub Divisional Judicial Magistrate, Loharu found some lapses in the investigation, a thorough further investigation was required to rule out all the suspicions and to hold whether Kuldeep Singh @ Balli was murdered or he fell down from the tractor and crushed under the wheels of tractor, as claimed by the police.

In these circumstances, further investigation ordered by the learned Sub Divisional Judicial Magistrate, Loharu, vide order dated 17.12.2014 is entrusted to Crime Branch, Rohtak to conduct further investigation and submit further report under Section 173(8) Cr.P.C. before the learned Sub Divisional Judicial Magistrate, Loharu within two months from the date of receipt of certified copy of this Court. In the meanwhile, further proceedings before the learned Magistrate shall remain stayed till the receipt of further investigation report.

As such, the present petition is allowed.

(KULDIP SINGH)
JUDGE

November 06, 2017

sarita