

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

245

CRM-M-23702 of 2015

Date of decision: 10.05.2017

Balwant Singh

...PETITIONER

VERSUS

State of Punjab and others

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

**Present: Mr. K.S.Boparai, Advocate,
for the petitioner.**

Mr. Jashanpreet Singh, Assistant Advocate General, Punjab.

**Mr. D.K.Singla, Advocate,
for respondents No. 5 to 8.**

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court praying for directions to respondents No. 1 to 3 for getting the case investigated by the Central Bureau of Investigation or to constitute the Special Investigation Team from Crime Branch of Chandigarh Police so that murder of Manjinder Singh, son of the petitioner, could be properly investigated after registration of an FIR.

It is the allegation in the present petition that the son of the petitioner was found dead in the morning on 31.08.2013 adjacent to the house of the petitioner, Village Bhagwanpura, Tehsil Samrala District Ludhiana. It is contended that on 30.08.2013 at about 7 P.M., Manjinder

meals to his grandmother Dalip Kaur residing in Harijan Colony of the village but did not return back till late night. The petitioner and the other members of the family searched for him but could not find him anywhere. It is on the next morning that one Amrik Singh-respondent No. 8 told Balour Singh son of Bhola Singh that a drunkard male person was lying in the fields of Joginder Singh but did not disclose the identity of the deceased while he was familiar with the deceased. Petitioner reached there along with other persons and found the dead body of his son Manjinder Singh. The same day, postmortem was conducted, report of which is appended as Annexure P-2. Prior thereto, the photograph of the dead body was also taken, copy of which has been appended as Annexure P-1. Proceedings under Section 174 Cr.P.C. were carried out.

Petitioner alleges that he approached the police many times and had moved an application-cum-complaint on 12.06.2014 to the Senior Superintendent of Police, Khanna (hereinafter referred to as 'SSP'). In the said complaint, he had specifically given the motive and the persons, against whom he had doubt that they were involved in the said offence. According to him, the motive was revenge of an earlier incident, which had occurred in January, 2013 when Kuldip Kaur, mother of the deceased and wife of the petitioner, was publicly beaten and abused in the village by respondent No. 5 Chhinder Kaur wife of Jang Singh. On 02.02.2013, the deceased had retaliated and had given beatings to Chhinder Kaur, on which she developed grouse against the deceased and to take revenge, such step has been taken by her along with her husband Jang Singh and her friend Smt. Beant Kaur wife of Nirmal Singh-respondent No. 7. Nirmal Singh, when was serving as a servant with Joginder Singh, had taken an advance of ₹67,000/-. He left

the service without returning the amount. There was, thus, a dispute between Nirmal Singh and Joginder Singh. It was with this grudge in mind that Nirmal Singh and his wife Beant Kaur, after killing the son of the petitioner, had thrown his body in the field of Joginder Singh with an intention to falsely implicating him. They wanted to eliminate the petitioner's son and are the persons who had actually murdered his son.

Reply to the petition has been filed, wherein it has been stated that on the complaint of the petitioner, which is dated 12.06.2014 although the incidence is dated 30.08.2013, on orders passed by the SSP, an enquiry was conducted by DSP Samrala who submitted his report dated 18.12.2014 . On the basis of the enquiry, nothing has been found against the persons against whom the allegations have been made. That apart, it has been asserted that in the Medico Legal Report, no injury has been found on the person of the deceased. Similarly, as per the Chemical Examiner report, no poison has been detected in the viscera. A small reddish abrasion has been found on the left foot of the deceased but that is on a non-vital part and could not be said to be having an implication as far as the death is concerned. The doctors have finally opined that the cause of death cannot be ascertained. There is nothing which would indicate that the death of the son of the petitioner was, in any manner, attributable to a cause or that the private respondents No. 5 to 8 were involved in the commission of such an offence, as has been asserted. This detailed report dated 18.12.2014 submitted by the DSP Samrala was considered and accepted by the SSP on 18.03.2015.

Counsel for the petitioner has placed reliance upon a judgment of the Supreme Court in **Ramesh Kumari vs. State NCT of Delhi and**

others, 2006 (2) RCR (Criminal) 197, wherein it has been held that is mandatory under Section 154 Cr. P.C. for police to register an FIR. It is thereafter that the genuineness or otherwise of the information can only be considered. Counsel, thus, contends that the non-registration of an FIR by the police authority cannot sustain. Reliance has also been placed on a judgment of this Court in **Aarti Jain vs. Central Bureau of Investigation and others**, 2015 (2) RCR (Criminal) 650.

I have considered the submissions made by the learned counsel for the parties and with their assistance, have gone through the records of the case.

The incidence is, according to the petitioner, of 30.08.2013. The postmortem has been conducted on 31.08.2013. In the postmortem report, nothing has come on record which would indicate that there was any struggle on the part of the petitioner or any injury is found on the person except for an abrasion on the left foot. The Chemical Examiner's report also states that there is no poison found therein. The report of the doctor is that the cause of death cannot be ascertained.

The first complaint, which has been made by the petitioner, is dated 12.06.2014. An explanation has been given by the counsel for the petitioner that prior thereto, it was the stand of the prosecution that till the report of the Chemical Examiner is received, they would not proceed in the matter. It is apparent that for the first time, the allegations have been made against respondents No. 5 to 8 on 12.06.2014 after a period of more than nine months. On that complaint also, an enquiry was conducted by the Deputy Superintendent of Police, Samrala, who has also come to a conclusion that there is no incriminatory material available on record

against the private respondents No. 5 to 8. Assuming the explanation of the counsel for the petitioner with regard to the delay in submission of the complaint to the police authorities is accepted that the report of the Chemical Examiner was awaited, there was nothing which would have detained the petitioner from approaching the police authorities for making allegations against respondents No. 5 to 8.

In the present facts and circumstances of the case, it cannot be said that any cognizable offence, as such, is made out when nothing has been found in the postmortem report as well as in the Chemical Examiner's report which would indicate that the death of the son of the petitioner was because of certain causes which would have been attributable to some poisonous substance injected or ingested and/or any sort of violence as there is no injury found on any part of the body except the abrasion on the left foot, what to say, any vital part of the body. Inquest proceedings were held and during that no doubt was expressed by the petitioner.

Finding no merit in the present petition, the same stands dismissed.

May 10, 2017

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No