

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

**CRM-M No.28492 of 2012 (O&M)
Date of decision : December 05, 2017**

Lalita

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Arshdeep Kaur and Mr. Sukhjit Singh, Advocates
for the petitioner.

Ms. Monika Jalota, DAG, Punjab.

Mr. D.R. Punia, Advocate for respondent Nos.5 to 8.

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)

Heard.

Present petition has been filed under Section 482 Cr.P.C. for issuance of direction to respondent Nos.1 to 4 to enquire into the death of Bunny Aslam son of the petitioner and hold a fair and impartial inquiry, apparently after getting the case registered against respondent Nos.5 to 8.

During the course of inquiry, the version given by respondent Nos.5 to 8 as reproduced in the order dated 10.10.2017 is reproduced as under:

“According to the version given by them, Justina @ Rincy was to go to Baba Farid University for submission of admission form for which he requested Bunny Aslam (deceased) to accompany him. Bunny Aslam initially

refused but then agreed. However, when Justina @ Rincy went to the house of Bunny Aslam, she got late so she along with her friend Harjit Kaur left for Faridkot by bus. Later on Bunny Aslam(deceased) called Justina and told her that he is coming by car and asked her to get down at Moga bus stand. Accordingly, Justina and Harjit Kaur got down at bus stand Moga, whereby Bunny Aslam accompanied by his friend Amanpreet and Amit reached there, then all of them went to Faridkot in the said car. In the way, Bunny Aslam was interested to take bath in the nearby canal but he was told that they will get late. Therefore, Bunny Aslam did not do so. When all of them reached the University, it was found that the last date of submission of form was over. Hence, they left for return journey to Ludhiana. Near the University, there was a liquor shop and another shop from where Bunny Aslam, Aman Preet and Amit bought coke, chips and a bottle of liquor and all of them started drinking. Justina repeatedly told Bunny Aslam not to drink too much liquor as he had to drive the car but he did not obey her. When they reached the canal, Bunny Aslam stopped the car and parked it near a tree. He was again asked not to take bath but Bunny Aslam insisted and removed his clothes and threw them in the car and went in the canal to take bath. While Amit and Aman Preet were roaming around. Justina and Harjit Kaur remained seated in the car. They saw a boy bathing in the canal while his father was waiting for that boy near a tree. That boy was having shampoo with him. Bunny Aslam asked for shampoo, That boy gave shampoo to Bunny Aslam. Bunny Aslam while applying shampoo suddenly slipped from the step and fell into the canal. The boy rushed to help Bunny Aslam but Bunny Aslam kicked that boy in the stomach. The boy came out from

the canal and ran away with his father. The said two girls and two boys were scared due to the incidence. They tried to find out some diver but no one was available. All of them decided to leave from the spot. They threw Bunny Aslam's clothes as well as Sim card out of the car but Aman kept the cellphone of Bunny with him and suggested everyone not to report the incidence to anyone. The car was later on found in Ludhiana about 3.30 p.m.”

The police authorities were directed to do the following:

“(1) Let the police take all the four suspects separately to the shop from where liquor was bought and also to the shop from where coke and chips were bought and ask them to identify the shops.

(2) Similarly, they be also taken to the place, where the car was parked, to identify the place where Bunny Aslam started bathing in the canal.

(3) The police is also directed to take the suspects to the place and identify the same where the clothes and Sim of the deceased Bunny Aslam was thrown and also question them as to who had abandoned the car in Ludhiana in the evening hours.

(4) The police is also directed to check up as to in whose possession the mobile of deceased Bunny Aslam was found and why it was kept by him.

(5) Police may also corroborate the said story put forward by the suspects from their tower location.”

In response to the said directions, the police carried out further inquiry. The police took all the four suspects one by one to the said places as pointed out in the said order and has reported that they have identified the said places. Therefore, the police has reported that the version given by all

the four suspects is correct and that no case is made out against them.

Learned counsel for the petitioner have argued that in this case the conduct of all the suspects is as such that indicates a foul play. Rincy Justina was in love with Bunny Aslam. The dead body of Bunny Aslam could not be found. Before leaving the home, Bunny Aslam had disclosed to his mother that he was going with Rincy Justina. Therefore, his statement be treated as dying declaration.

Learned counsel for the petitioner has also relied upon the authority of Patna High Court delivered in case of ***“Pakala Narayana Swami v Emperor”*, 1939 AIR (PC) 47.**

I have carefully examined the file. The examination of the file shows that in this case, on the order of this Court, thorough investigation was conducted. The police has come to the conclusion that Bunny Aslam was drowned while bathing in the canal, while on the way while coming back from Faridkot to Ludhiana. He also consumed liquor before taking bath. He slipped and was drowned.

In addition to enquiring into the matter, brain mapping of all the four suspects was also got conducted, which revealed that the version as noted above given by them is correct.

In order to find out the truthfulness of the version of the suspects, a direction was given to the police to take all the suspects one by one to the shop from where they bought liquor and to the shop from where coke and chips were bought. They were also directed to be taken to the place one by one where the car was parked and the place where Bunny Aslam took bath in the canal. Their version that Bunny Aslam was drowned

in canal and car was abandoned in Ludhiana was found to be correct. The tower location was also checked up. Therefore, the police has come to the conclusion that Bunny Aslam was drowned in the canal and that out of fear, all the four suspects threw his clothes and sim and also abandoned the car. No foul play has been established in the present incident. The dead body of Bunny Aslam has not been found. There is apparently no evidence on file that Bunny Aslam was murdered by the four suspects as claimed by the petitioner.

It being so, there is no ground to order institution of the case or handing over the same to some other independent agency.

Accordingly, the present petition is dismissed.

(KULDIP SINGH)
JUDGE

December 05, 2017

sarita

Whether speaking / reasoned Yes

Whether Reportable: No