

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37066-2014 (O&M)

Date of decision: 11.08.2017

Shyambir Singh

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.Navneet Singh, Advocate for the petitioner
Mr.R.K.Makkad, Deputy Advocate General, Haryana
Mr.Sumeet Goel, Advocate for respondent no.5
Mr.Manoj Sood, Advocate for the respondent No.6
Mr.Y.P.Khullar, Advocate for the respondent no.7

- 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. (Oral)

Petitioner has filed this petition under Section 482 Cr.P.C. for handing over the investigation of FIR No.281 dated 21.7.2012 under Section 365 IPC registered at Police Station Sadar Palwal to Central Bureau of Investigation.

Case of the petitioner is that his father Bhim Singh had sold some land to Raj Kumar – respondent No.6. On 16.7.2012 Rambir brother of the petitioner went to collect money but did not return back to home. The petitioner suspected that Raj Kumar – respondent no.6 and Sunder Lal – respondent no.7 have committed some crime against his brother. It was further stated by the petitioner that he had inquired from Raj Kumar who informed him that on 16.7.2012 Rambir had come to him at 11.20 am and after collecting Rs.one lakh went back after 10-15 minutes. Rambir is not

traceable since then despite a lapse of more than five years.

It comes out that earlier also the petitioner had filed CRM -M-27496 of 2012, which was withdrawn as the police had submitted the untraced report and the petitioner wanted to avail the remedy available under law. As per present petition untraced report was submitted and the same was accepted by the concerned Illaqa Magistrate.

Reply of respondent nos.1 to 4 in the present petition as well as in the earlier petition shows that they had made due inquiries. Statements of Raj Kumar and Sunder Lal were recorded. They were also subjected to polygraph test and it was found that they were speaking truth confirming that Rambir had come to Raj Kumar on 16.7.2012 and went back after 10-15 minutes. Therefore, the police found that said persons are innocent. Call details were also taken out from which nothing could be detected. However, the fact remains that Rambir is missing since 16.7.2012 and is not traced so far. Police also searched dead bodies and even dead body of Rambir could not be recovered. Even though the police found that respondent nos.6 and 7 i.e. Raj Kumar and Sunder Lal were innocent, however, it was their duty to find out as to whether Rambir, who was married and was stated to be only 23 years old, himself left for undisclosed place or some crime was committed while coming back from the house of Raj Kumar – respondent no.6. However, the police appears to be satisfied that Raj Kumar and Sunder Lal are innocent. May be that the said respondents are innocent, however, the proper investigation was to be conducted as to what happened to Rambir. Said Rambir is not traceable for the last five years.

The investigation conducted by the police was not taken to the

logical conclusion. In these circumstances, it is to be seen as to whether further investigation is required to find if some crime was committed against Rambir and also to trace out Rambir, if he is alive. In the normal circumstances, had Rambir been alive, he being 23 years old and most probably married recently, would not have remained away from his family for the last five years. There could be other several angles in the investigation, which were not properly investigated.

In these circumstances, the investigation of FIR No.281 dated 21.7.2012 under Section 365 IPC registered at Police Station Sadar, Palwal, is withdrawn from the State police and further investigation is entrusted to Central Bureau of Investigation for investigating into the matter and taking the investigation to logical conclusion as to whether if Raj Kumar and Sunder Lal respondent nos.6 and 7 respectively have not committed any crime, then whether any crime was committed against Rambir and if so by whom and then if Rambir is alive trace him out. Respondent nos.1 to 4 are directed to hand over the entire record to Central Bureau of Investigation -respondent no.5 to enable them to carry out the investigation.

The present petition stands allowed accordingly.

11.08.2017

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No