

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9849-2012 (O&M)

Date of decision: 10.10.2017

Paramjit Kaur

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.P.S.Sekhon, Advocate for the petitioner
Ms.Monika Jalota, DAG Punjab
Mr.L.M.Gulati, Advocate for respondent Nos.4 to 6

- 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?*

Kuldip Singh, J.

Petitioner has filed the present petition for directing the official respondent nos.1 to 3 to register a case under Section 302 IPC against respondent nos.4 to 9 for murder of her son Veer Singh @ Heera after handing over the investigation to Central Bureau of Investigation or Crime Branch Punjab. Further prayer is for protecting life and liberty of the petitioner.

Petitioner claims that her family consisting of herself, her husband and her three sons are being illegally detained by the police and involved in different cases. Petitioner had earlier filed a petition bearing Criminal Writ Petition No.839 of 2008, in which it was found that the petitioner and her sons are in illegal custody of the police. Vide order dated 18.12.2008, inquiry was entrusted to learned Chief Judicial Magistrate, Barnala. During inquiry, police of Police Station Kotwali started harassing

the petitioner and her family members and involved her son in false cases. Son of the petitioner Kharak Singh, who was in judicial custody from 16.4.2009 to 12.9.2009 was involved in case pertaining to FIR No.200 dated 26.8.2009, though the incident took place on 25.8.2009, when her son Kharak Singh was in judicial custody. Petitioner and her family was being pressurized to withdraw the inquiry or compromise the matter.

It is further alleged that on 8.1.2002, petitioner, her husband Kulwant Singh, her son Veer Singh @ Heera were present at their house at Gurudwara Shahid Garh near Sikha Phatak. At about 3.00 p.m., Rajesh Sanehi, SHO, Police Station Kotwali Barnala, Sarabjit Singh DSP, ASI Parkash Singh, ASI Swaran Singh, ASI Ajaib Singh and PHG Bullet Singh along with other officials raided their Gurudwara. Veer Singh @ Heera son of the petitioner was sleeping. He was picked up by the police officials forcibly stating that he is being taken for inquiry. Veer Singh @ Heera was taken to Kotwali Barnala. On the same day, when the son of the petitioner did not come back to the house then at about 9.00 pm, petitioner inquired from the police station Kotwali Barnala and SHO told her that her son fell unconscious, therefore, he was got admitted in Civil Hospital Barnala. When the petitioner went to Civil Hospital Barnala, she came to know that her son had already died. Petitioner claims that respondent nos.4 to 9, who are police officials killed Veer Singh @ Heera son of the petitioner and his dead body was sent to the Civil Hospital through Mangat Singh and Jagir Singh, who were already in police custody at that time. In order to justify themselves, the police officials registered an FIR No.8 dated 8.1.2012 under Sections 452, 506 read with 34 IPC at Police Station City Barnala at 7.30 p.m. against Kharak Singh, brother of Veer Singh @ Heera and admitted

that Veer Singh @ Heera was brought to police station. FIR was registered at 7.30 p.m. on 8.1.2012 and the dead body of Veer Singh @ Heera was received in Civil Hospital at 8.10 p.m. It is stated that Veer Singh @ Heera has died in police custody and to save their own skin, the said FIR No.8 was registered against brother of Veer Singh @ Heera.

State has filed reply in the shape of the affidavit of Surjit Singh, PPS, Senior Superintendent of Police, Barnala, in which, it is stated that at the time of incident on 8.1.2012, Mrs.Dhanpreet Kaur was the Senior Superintendent of Police and the reply is being filed on the basis of the official record. It was stated that on 8.1.2012, information was received from Medical Officer, Civil Hospital, Barnala regarding receipt of dead body of an unknown person, whereupon ASI Swaran Singh along with ASI Parkash Singh and other officials reached Civil Hospital, Barnala but Mangat Singh who has brought the dead body in the hospital, was not found. Later on, Mangat Singh came to Police Station and informed that he along with one Raju Singh had found one boy lying unconscious in front of Jindal Medical Hall. The said boy appeared to be under the effect/ influence of intoxicant and was removed to the Civil Hospital Barnala, where he was declared dead. At that time, identity of the deceased was not clear. However, later on they learnt that he was son of Nihang Singh. On this DDR No.46 dated 8.1.2012 was recorded at Police Station City Barnala by ASI Swaran Singh, who thereafter left the police station to trace the identity of the deceased person. Next day, ASI Swaran Singh met Jagtar Singh son of Gurdev Singh, who disclosed the identify of the deceased as Veer Singh @ Heera son of Kulwant Singh. It was further stated that police moved an application to Sub Divisional Judicial Magistrate, Barnala requesting to

order appropriate proceeding in the matter. Then on the order of learned Chief Judicial Magistrate, Barnala Shri H.P.Singh Additional Chief Judicial Magistrate, Barnala got the post-mortem conducted by a board of doctors in his presence and in the presence of Jaswant Rai, Executive Magistrate, Barnala. Proceedings of postmortem were video-graphed. During postmortem, the doctors found one capsule of Parvon Spas from the pocket of the deceased's shirt. No mark of injury was found except one old healed small abrasion having scab on the left side of nose near its root and another old healed small abrasion on left leg having brown scab. Learned Additional Chief Judicial Magistrate, Barnala submitted the report to learned Chief Judicial Magistrate, Barnala vide memo No.98 dated 25.2.2012. Learned Chief Judicial Magistrate, Barnala further sent the report to the office of Senior Superintendent of Police, Barnala on 1.3.2012. It is further stated that Superintendent of Police (Headquarter) Barnala conducted an exhaustive inquiry. In the report of chemical examiner, it was reported that Chlorocompound Group of Insecticides was found in the Viscera and that poison could go into the body through oral consumption or by inhaling. Therefore, it was concluded during inquiry that death has not occurred due to alleged torture by the police.

This Court, vide order dated 18.10.2012, directed learned Chief Judicial Magistrate, Barnala to conduct an inquiry and submit its report to this Court. The said report has also been submitted.

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

Police has maintained that the petitioner and her family are having criminal background, regarding which, list of FIRs registered against

petitioner, her husband Kulwant Singh @ Nihang, her son Kharak Singh @ Sonu, Ranjodh @ Bholu and Veer Singh @ Heera deceased have been enclosed. Three cases were registered against Veer Singh @ Heera deceased.

Now, the question for consideration before this Court are as to whether:-

1. Veer Singh @ Heera was taken into police custody and died during police custody?
2. He was tortured by the police or not?
3. The story of the police that Veer Singh @ Heera was found outside the Ranjot Medical Store under the influence of intoxicant and found by Mangat Singh and Raju Singh is to be believed or not?
4. Report of Chemical examiner is acceptable or not?

The postmortem report shows some old healed wounds, therefore, torture by the police on 8.1.2012 has to be ruled out.

Now, coming to the next point as to whether the deceased was taken into police custody and died in police custody and whether the police story of his being found outside the Jindal Medical Store by Mangat Singh and Raju Singh is to be believed, I am of the view that admittedly, earlier, the Postmortem was conducted in the presence of Shri H.P.Singh Additional Chief Judicial Magistrate, Barnala, who submitted his report, wherein Paramjit Kaur petitioner has maintained that her son was taken away by the SHO Police Station Kotwali with 20-25 persons on 8.1.2012 at 2.00 p.m. On next day i.e. 9.1.2012, she came to know about death of her son.

Postmortem report shows that no smell of Chlorocompound was recorded.

No blood or froth was coming out from the mouth of the deceased. The report of chemical examiner (Annexure R5) shows that Chlorocompound Group of Insecticides was detected in Ex.2, 3, 4 and 5 i.e. the from the stomach, large and small intestine, blood, parts of lungs and heart, liver, spleen, eyes. Capsule recovered from the deceased was of Parvon Spas.

During inquiry by the Superintendent of Police, statements of various officials and the petitioner were recorded. The police has maintained that when raid was conducted at the house of the petitioner on 8.1.2012, regarding investigation in the case pertaining to FIR No.8 dated 8.1.2012 under Sections 382, 452, 506 read with 34 IPC at Police Station City Barnala to arrest Sonu Singh @ Kharak Singh, Veer Singh @ Heera found present in the home under the influence of liquor. He was warned and left at home. Police denied taking away Veer Singh @ Heera. Statement of Paramjit Kaur was supported by Hav Sukhdev Singh during inquiry by the Superintendent of Police, who claimed that he had seen the police taking Veer Singh @ Heera to Police Station Barnala. He had followed the police upto the police station. FIR No.8 dated 8.1.2012 (Annexure P3) makes an interesting reading. It is recorded that Sonu @ Kharak Singh went to the shop of complainant Rohit Kumar at about 6.30 pm. On 8.1.2012 along with a lady. He was carrying sword and asked Rohit Kumar to give a new mobile phone and on refusal of Rohit Kumar he picked up new China Mobile from his counter valued at Rs.2300/- and went away. Immediately, thereafter case was registered. Probably, at that time Veer Singh @ Heera had died. The promptness with which police acted on the complaint of Rohit Kumar raised question mark regarding registration of FIR No.8 dated 8.1.2012 under Sections 382, 452, 506 read with 34 IPC at

Police Station City Barnala against Sonu @ Kharak Singh brother of the deceased Veer Singh @ Heera. This FIR is used as a cover to justify the visit of the police to the house of Veer Singh @ Heera. It is again reiterated that at the time of postmortem, there was no smell of any Chlorocompound nor any froth was coming out from the mouth of the deceased. When a person died by consuming Chlorocompound, blood comes out from the mouth, there is blood from the nostril and there is a foul smell, there is also vomiting which smears the clothes and one can easily make out that it is a case of consumption of Chlorocompound. However, this was not found.

Learned Chief Judicial Magistrate, Barnala, who conducted the inquiry into the circumstances of the present case, after recording the statements of all the concerned parties, also recorded the statement of Dr.B.R.Sharma, former Director, CFSL, Chandigarh, who gave the detailed report Ex.R22/A. Relevant extracts from the report are reproduced as under:-

8. *In this case, to strengthen the case of respondents, the respondents have examined one witness RW22 Dr.B.R.Sharma, Former Director, CFSL, Chandigarh, who has given his detailed report Ex.RW22/A wherein he has categorically made mention as to modern chloro compounds insecticide are highly irritant to the soft skin. They have obnoxious taste and create convulsions on intake, resulting in violent vomiting attack. Stomach contents are vomited out, soiling the clothes, skin and the place. Food particle are deposited in the nose, mouth and trachea, but in the present case, no vomitus on the body parts of the deceased were noticed by the board of the doctors and in absence of vomitus on clothes and person of deceased, ingestion of chloro compound insecticide is not found to be sustainable. It is further mention that chloro compound insecticides are usually not homicidal poisons and*

considerable quantities are needed to cause fatalities and homicidal fatal doses of chlorocompound group of insecticide can not be administered easily to a non-willing victim.

9. RW22 Dr.B.R.Sharma has further made mention in his report that chlorocompound group of insecticides is not quick acting poison and would not kill a person immediately. Usually it takes days and weeks for death to take place after ingestion which is also too slow, but death within few hours as alleged in this case, is unthinkable unless it is suicidal gulp of large amount. The presence of chlorocompound insecticides in body tissues (III, IV) indicates their intake was long before the present death episode. There is no evidence to show that chlorocompound insecticides were with the police officials or they were used to kill Beer Singh. Chlorocompound insecticides are not stored in police stations as they are not useful for any police work and it could not be available to the police for heinous crime in that short interval and collection of the same could have taken time, as police had time 3-4 hours between taking away of Beer Singh @ Heera from his house and his discovery in unconscious state. This Court is further find inconsonance to the report submitted by said Dr.B.R.Sharma to the effect that Parvon spas is a drug formulation having ingredients (i) dextropropoxyphene hydrochloride 65 mg (ii) paracetamol 400 mg and (iii) dicyclomine hydrochloride 10 mg and dextropropoxyphene is the main active ingredient and it is an analgesic, like opioid and has anti-tussive and anesthetic properties. It was being used extensively used all over the world as a medicine to relieve pain, etc, but it has been discontinued, in most of the countries for its adverse effects. Dextropropoxyphene containing capsule was recovered from Beer Singh @ Heera and it stands to reason that he has been using the dangerous drug and probably the cause of death of Beer Singh @ Heera.

As per postmortem report, age of the deceased was 19 years

only. As per opinion of the doctor, due to consumption of Chlorocompound, death is not immediate. In view of the said report, some question will crop up for determination. The fact is that the witnesses saw Veer Singh @ Heera being taken to the police station on 8.1.2012 around 3.00 p.m. and after sometime, he was found outside the medical shop, which is near the said police station. Mangat Singh and Raju Singh, according to the petitioner, were in police custody at that time. Neither Mangat Singh or Raju Singh nor doctor found any symptom of consumption of Chlorocompound. Death in cases of consumption of Chlorocompound is slow and not quick. Therefore, it has to be probed whether the chemical examiner made a correct report or it was a procured one, as it goes against the evidence/ facts existing at the time of postmortem, which indicate that there was no consumption of Chlorocompound when the deceased was allegedly taken to the hospital and his postmortem was conducted. The second question is then as to how Veer Singh @ Heera, who was taken away by the police, died? All these matters need thorough probe.

Learned Chief Judicial Magistrate, Barnala in his inquiry report conducted in pursuance to the order of this Court, has not touched this aspect of the controversy.

I am of the view that a thorough probe in the present matter is required to examine as to whether the report of the chemical examiner regarding presence of Chlorocompound in viscera is false and procured one and if so, fix the criminal liability and also as to whether as to in which circumstances, young boy of 19 years died while he was taken away by the police from his house and why the police so promptly registered FIR No.8 dated 8.1.2012 under Sections 382, 452, 506 read with 34 IPC at Police

Station City Barnala to cover up their raid on the house of the petitioner?

As such, Crime Branch of Punjab is directed to register an FIR in the matter under appropriate sections regarding mysterious death of Veer Singh @ Heera in policy custody and then conduct the investigation and find out the truth and also find out as to whether the report of Chemical Examiner is genuine or false? If report of Chemical Examiner is found to be false, defaulting officials/officers be accordingly booked and challaned under appropriate Sections of IPC.

Petition is accordingly partly allowed.

10.10.2017

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	Yes