

Sr. No.111

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM No. M-11222 of 2018 (O&M)

Date of Decision: 27.03.2018

Sukhram Pal

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Deepanshu Matya, Advocate,
for the petitioner.

TEJINDER SINGH DHINDSA, J.(ORAL)

Instant petition has been filed under Section 482 Cr.P.C. praying for issuance of directions to official respondents No.1 to 3 to conduct a fresh and fair investigation in case FIR No.604 dated 17.10.2016, under Sections 302 and 120-B, registered at Police Station Sohna, District Gurugram.

Prayer has also been raised for handing over the investigation to a Special Investigation Team or to a senior police official not below the rank of IPS Officer from outside Gurugram District. There is also a prayer for directing respondents No.2 and 3 to show cause as to why name of private respondent No.8 was deleted from the FIR. Yet another prayer made in the petition is for directing respondent No.2 to show cause as to why in the final investigation report pertaining to the FIR in question the offence under Section 304 IPC has been cited instead of Section 302.

Counsel for the petitioner has been heard at length.

During the course of arguments, counsel has referred to orders passed by a Coordinate Bench while dealing with a regular bail petition of a co-accused Rohtash i.e. CRM No.M-11977 of 2017. As per order dated 17.05.2017 the Commissioner of Police, Gurugram had been directed to go into the matter and to explain as to why a footage from the CCTV camera installed at a particular hotel had not been collected.

Counsel submits that such direction had been issued against the stand taken by the complainant that such CCTV footage would be relevant to reflect upon the complicity of the accused and against the assertion that respondent No.5, namely, Rohtash had withdrawn a sum of Rs.5000/- from an ATM at Bhondsi for the purpose of purchasing liquor so as to intoxicate the deceased and even such CCTV footage had not been collected.

It has gone uncontroverted that in pursuance to the directions issued by the Coordinate Bench in the light of order dated 17.05.2017 in CRM No.M-11977 of 2017, an affidavit of the Commissioner of Police, Gurugram was duly filed and placed on record before this Court and which is reflected in the subsequent order dated 01.06.2017 passed in CRM No.M-11977 of 2017 and which reads as follows:

“Pursuant to the order dated 17.05.2017, an affidavit of the Commissioner of Police, Gurugram, has been filed in Court today by learned State counsel, a perusal of which shows that, as per the Commissioner, the investigation has been now fairly carried out.

As regards the specific query of this Court with regard to the CCTV camera installed at Hotel Chinar

at Badshahpur, it is stated that since the occurrence is stated to be of 16.10.2016, whereas the arrest of the petitioner and his co-accused was made on 27.01.2017, no CCTV footage is available, as the Hotel retains it only for a period of one week.

The charge is still to be framed against the petitioner.

Adjourned to 07.07.2017.”

The observations contained in the afore reproduced order would be relevant.

The Coordinate Bench had virtually accepted the contents of the affidavit filed by the Commissioner of Police, Gurugram to the effect that the investigation had been carried out in a fair manner and that the CCTV footage had not been collected for the reason that the occurrence was of 16.10.2016, arrest of the accused was made on 27.01.2017 and the CCTV footage was retained by the hotel in question only for a period of one week.

Solely based on aspect noticed hereinabove, no case is made out for directing a fresh investigation and that too at the hands of police official of the IPS level from outside Gurugram District. Such view is also being taken against the backdrop that the challan document having been presented even charges stand framed.

Insofar as the other prayers raised in the instant petition and which have been noticed at the very outset, petitioner would be at liberty to avail of his alternate remedies as may be available in accordance with law and as per provisions of the Code of Criminal Procedure.

No intervention in the matter is called for.

Petition dismissed.

27.03.2018

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No