

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

CRM-M-40995-2017 (O&M)

Date of Decision:-5.7.2018

Suman

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sanjiv Gupta, Advocate for the petitioner.

Mr. Sandeep Vashisht, DAG, Haryana.

Ms. Pratibha Yadav, Advocate for
Mr. P.R.Yadav, Advocate for respondents No.5 to 9.

Ms. Versa Gupta, Advocate for
Mr. Sumeet Goel, Advocate, for respondent No.10.

GURVINDER SINGH GILL, J. (Oral)

By way of filing this petition, complainant Suman seeks issuance of a direction to respondent No.10 to re-investigate the matter arising out of FIR No.164, dated 18.4.2016, under Sections 302/34 IPC Police Station DLF-II, Gurugram so as to proceed against respondents No.6 to 9 who as per the complainant are the real culprits.

The allegations, in nutshell, are that Jaipal, husband of the complainant had been murdered on 17.4.2016 while he was returning home after attending marriage of his relative. The police investigated the matter and filed a challan only against respondent No.5 Ajit Singh.

The learned counsel for the petitioner has submitted that the police has not fairly investigated the case and that in fact the real culprits who had murdered the husband of the petitioner are respondents No.6 to 9 namely Bimla, Ajju, Akash and Vicky.

At the last date of hearing the State had been directed to file an affidavit of Deputy Commissioner of Police, Gurugram so as to specify as to on what basis, only respondent No.5 / Ajit Singh has been arrayed as an accused and as to why the other accused had been left out.

Today the learned State counsel has filed an affidavit of Sh. Kuldeep Singh, IPS, Deputy Commissioner of Police, East, Gurugram wherein the reasons for not proceeding against respondents No.6 to 8 namely Bimla, Ajju and Akash have been stated as follows:

“4. That after the receipt of orders dated 15.05.2018, the police file was perused by the deponent and it was found that the investigation has been conducted by the investigating officers fairly and diligently as per investigation, the accused Ajit was found to be involved in the crime and the other alleged accused persons namely Bimla, Ajju and Akash have not been found to be involved in the crime, on the following grounds:-

- i. That the polygraph test of accused Bimla, Ajju and Akash was got conducted through FSL Madhuban after taking permission from the court. In their polygraph test nothing could be extracted from the mouth of above named accused persons.
- ii. That no other incriminating evidence came forth against the above named alleged accused persons except accused Ajit during the course

of investigation conducted by the then ACP DLF, Gurugram.

- iii. That the application u/s 190/200 Cr.PC filed by the petitioner against the supplementary report dated 30.3.2017 was dismissed by the court of Ld. Sessions Judge, Gurugram vide order dated 07.10.2017 after taking into consideration all the facts, circumstances and evidence of the case.”

It has been further deposed therein that the name of respondent No.9 Vicky does not figure anywhere in the FIR. In view of the aforesaid position from which it is apparent that the police had conducted scientific investigation inasmuch as the polygraph test had been conducted on Bimla, Ajju and Akash and nothing could be extracted during the said test and the police could not lay its hands on any incriminating evidence against the aforesaid persons, it cannot be said that the police had conducted investigation in an unfair manner qua the aforesaid persons.

In view of the aforesaid facts and circumstances, there is no ground for issuance of any direction as prayed for. Needless to mention the prosecution would be well within its rights to move an application under Section 319 Cr.P.C. in case any evidence surfaces against the aforesaid persons during the course of trial.

The petition stands dismissed.

July 5, 2018

mohan

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No