

CRM-M-43812 of 2017

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

CRM-M-43812 of 2017
Date of decision: 07.08.2018

Dalbir Singh Saroha

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Rajwant Singh Chahal, Advocate, for the petitioner.
Mr. Yashwinder Singh, DAG, Haryana.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C. prayer has been made for direction to hold fair and impartial enquiry/investigation into unnatural death of Vinod Kumar son of Sh. Om Parkash Chugh from some independent agency or senior IPS rank officer.

On 02.07.1997, on receipt of secret information, Karamveer @ Dhira a dreaded criminal involved in more than 20 criminal cases was chased by the police. During that process, Karamveer @ Dhira started firing upon the police party. Therefore, the police party also started cross-firing, in which Vinod Kumar accompanying Karamveer @ Dhira received some bullet injuries and died.

Therefore, FIR No.452 dated 03.07.1997 under Sections 307, 332, 353, 148, 149 IPC and 25-54-59 of the Arms Act was registered at Police Station City Sonapat.

Om Parkash Chugh, father of deceased Vinod Kumar, being dissatisfied with the investigation, filed criminal complaint No.274/1997 dated 10.07.1997 under Section 156 (3) Cr.P.C. before the learned Chief

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Judicial Magistrate, Sonipat, for offence under Section 302 IPC against the police officials of Police Station City Sonipat and others on the allegation of murdering his son in a fake encounter.

During the pendency of the said complaint, complainant Om Parkash Chugh also approached this Court by way of CRM-21420-M of 1997 for handing over the investigation to the Central Bureau of Investigation (CBI) to investigate into the death of his son Vinod Kumar. However, Sh. Om Parkash did not get any success inasmuch as the same was dismissed by this Court vide order dated 03.04.1998. Concealing the factum of filing of aforesaid petition before this Court, Om Parkash Chugh moved a criminal miscellaneous application before the Chief Judicial Magistrate, Sonipat, before whom his complaint under Section 156(3) Cr.P.C. was pending, for referring the case to CBI. Pursuant thereto, learned Chief Judicial Magistrate, finally vide order dated 18.03.1998 referred the matter to CBI to investigate into the unnatural death of Vinod Kumar.

The State of Haryana filed revision against the said order dated 18.03.1998 before the Sessions Court, Sonipat, which was allowed vide order dated 02.05.1998 (Annexure R-1) by learned Additional Sessions Judge, Sonipat, setting aside the order of the learned Chief Judicial Magistrate dated 18.03.1998, whereby investigation was handed over to the CBI.

In the meantime, Om Parkash Chugh also laid challenge to order dated 03.04.1998 of this Court as well as order of the Sessions Court dated 02.05.1998, whereby revision of the State was accepted by learned

Additional Sessions Judge, Sonipat, before the Hon'ble Supreme Court by way of SLP CrI. No.1696-97 of 1998, which was disposed of vide order

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dated 01.02.2000.

Pursuant thereto, learned Chief Judicial Magistrate referred the complaint of complainant Om Parkash Chugh to the police for investigation. Consequently, fresh FIR No.112 dated 03.03.2000 was registered under Section 302 IPC. After due investigation, cancellation report was filed by the police before the learned Chief Judicial Magistrate. Thereafter, after recording the protest statement of complainant Om Parkash Chugh, learned Additional Chief Judicial Magistrate accepted the cancellation report vide order dated 20.12.2003.

Since the year 2003 even Om Parkash Chugh father of deceased Vinod Kumar or any of his close relative did not raise any grouse against the cancellation report submitted by the police in case FIR No.112 dated 03.03.2000.

Now, after 14 years, the petitioner, who is remotely not related to deceased Vinod Kumar or any of his family members, as a public person and so called social activist has filed this petition under Section 482 Cr.P.C. for holding fair and impartial enquiry in the aforesaid FIR.

Learned State counsel submits that this is the second futile effort of the petitioner to harass the police and State machinery for exerting undue pressure upon them to favour him in 20 frivolous Civil Writ Petitions and criminal cases filed time and again by the petitioner against various police persons. Petitioner as a criminal has been booked in four cases in between 2009 to 2016. Though, he has been acquitted in two FIRs pertaining to the years 2006 and 2009, but is facing trial in other cases. By adopting such exercise, the petitioner wants to mount pressure upon the police and extort

money from the people. The petitioner has no *locus standi* to file the instant petition from any angle.

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Learned counsel for the petitioner, strongly refuting the above submissions of learned State counsel, and referring to para 3 of the judgment in ***A.R. Antulay v. Ramdas Siriniwas Nayak and another***, AIR 1984 Supreme Court 718 contends that petitioner has filed 19 cases, including present one, before this Court and one before the Hon'ble Supreme Court against fake encounters by the police. The petitioner, being a responsible citizen of the country, intends to unearth the *mala fide* actions of the police of eliminating innocent people by showing fake encounters. Out of five cases, he has already been acquitted in two cases. In one case, cancellation report has been filed. In the rest two cases, one is for cheque bouncing and with the second one, he has no concern whatsoever. The State police has not complied with the directions of the Hon'ble Supreme Court in its letter and spirit. Copy of the cancellation report was not supplied to the petitioner on account of its non-availability with the police. Alleged statement of father of deceased Vinod Kumar is not available with the police on the basis of which, cancellation report was accepted by the learned Additional Chief Judicial Magistrate, Sonipat. Therefore, the matter requires re-investigation.

Having considered rival submissions made by both the sides, I find this petition completely devoid of any merit for the reasons to follow.

The petitioner has no *locus standi* to file the instant petition, inasmuch as he is not even remotely related to deceased Vinod Kumar.

The petitioner has awoken out of a great slumber after 14 years of acceptance of the cancellation report by learned Additional Chief Judicial Magistrate vide order dated 20.12.2003 for the reasons best known to him,

though he is hardly affected and concerned by the death of Vinod Kumar.

Filing of different 20 petitions by the petitioner seems to be his

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blackmailing device to put undue pressure upon the police. The matter qua death of Vinod Kumar has gone upto the Hon'ble Supreme Court. Learned Chief Judicial Magistrate referred the complaint of father of deceased Vinod Kumar to the police, on the basis of which FIR No.112 dated 03.03.2000 under Section 302 IPC was registered and investigation. After 14 years of submission of cancellation report, no fruitful purpose can be achieved by re-investigation in the matter against the death of a person in the year 1997 i.e. around 21 years ago.

So-called social activists, like the petitioner, have cropped up in the recent past in a large number, inasmuch as they are generally found blackmailing the official machinery and the system with the sole motive of unlawful gain

In view of the discussion made above, petition is dismissed.

August 07, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No