

CRM-M-46560 of 2017 (O&M)

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

CRM-M-46560 of 2017 (O&M)
Date of Decision: 26.07.2018

Rajinder Kumar

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. P.S. Ahluwalia, Advocate, for the petitioner.
Mr. Davinder Bir Singh, DAG, Punjab.
Mr. Aman Pal, Advocate, for the applicant.

RAMENDRA JAIN, J. (ORAL)

CRM-20230 of 2018

Through this application under Section 482 Cr.P.C. prayer has been made to implead applicant-Krishan Kumar as respondent No.5 in the above titled petition and to hear him before passing any order of re-investigation.

Heard.

Hon'ble Supreme Court in *E. Sivakumar v. Union of India and others*, 2018(3) R.C.R.(Criminal) 111, has held that an accused has no right to be heard before ordering re-investigation. Therefore, this application is dismissed.

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Through this petition under Section 482 Cr.P.C., prayer has been made for transfer of investigation in case FIR No.97 dated 30.07.2017 registered under Sections 302 and 427 IPC at Police Station Lehra, District Sangrur, to Bureau of Investigation, Punjab.

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Briefly stated, on 30.07.2017 father of the petitioner died in a road accident. Aforesaid FIR was registered under Section 304 IPC against unknown persons. On the next date, in his supplementary statement, petitioner, who is son of deceased Harmesh Chand alias Mesi, raised finger on four persons for the murder of his father by giving it a colour of road accident. Resultantly, the Investigating Officer converted Section 304 IPC into 302 IPC.

On 01.08.2017, out of those four persons named by the petitioner as accused in his supplementary statement, Sukhvir Singh alias Sukha (petitioner in CRM-M-5251 of 2018) and one Balbir Singh were arrested. During investigation, both the above accused got recovered number plate of the offending vehicle, which they had changed to hide the occurrence.

On 04.09.2017, co-accused Balbir Singh, in custody, moved application before respondent No.3 – Senior Superintendent of Police, Sangrur, for re-investigation in the matter, raising grouse that he has been falsely implicated without fair investigation. Consequently Special Investigating Team (SIT) was constituted, who vide its report dated 20.10.2017 exonerated Balbir Singh and found complicity of accused Sukhvir Singh only, declaring all other accused named in the supplementary statement of the petitioner, as innocent with the observation that they were not present on the spot at the time of occurrence.

The petitioner by way of this petition has approached this Court raising grouse that SIT has not done fair investigation in the case in connivance with the local Sapranches and has wrongly and illegally declared the three persons, including applicant-Krishan Kumar, as innocent.

Further final report under Section 173 Cr.P.C. has deliberately been filed without appending the statements of the witnesses, which were recorded

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during investigation by the SIT, to facilitate sole accused Sukhvir Singh alias Sukha, so that he may be finally acquitted after trial.

Heard.

Having considered the submissions made by learned counsel for the petitioner, this Court is of the view that the matter requires re-investigation inasmuch as SIT has not given any sound reasoning for declaring Balbir Singh alias Kaka, Pawan Kumar alias Kala and Krishan Kumar as innocent. Pawan Kumar alias Kala has been declared innocent on the basis of statement of his friend Roshan Lal that at the time of occurrence he was standing in his fields, without further investigating the veracity of the statement of Roshan Lal. Krishan Kumar has been declared innocent on the plea of *alibi* that he had gone to Madhya Pradesh along with his Taya's son Raj Kapur, who is a cancer patient and Balbir Singh has been declared innocent on the ground that he had gone to his sister's place.

Though, call details of Krishan Kumar were obtained, from which his location was found at Madhya Pradesh, but the police has not intentionally collected the call details of Sukhvir Singh alias Sukha to connect them with the calls of Krishan Kumar. According to learned counsel for the petitioner, he was constantly in touch with accused Sukhvir Singh alias Sukha at the time of occurrence. Similarly, co-accused Balbir Singh was also in constant touch with Sukhvir Singh, but his call details must not have been taken so as to save above-named co-accused. Matter involves the murder of a human being which has intentionally and deliberately been given colour of a road accident.

Precious life of a human being has been taken away, who at one

point of time had remained Sarpanch of Village Alisher. Krishan Kumar and Pawan Kumar co-accused had also remained Sarpanch of the same

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Village. Therefore, judicial note of the fact can be taken that there is always a rivalry and enmity amongst Sarpanches and Panches.

In view of the discussion made above, it is ordered that the case in hand be re-investigated through Bureau of Investigation, Punjab, headed by an IPS Officer within two months. However, it is clarified that Bureau of Investigation, while re-investigating the matter, would not be influenced from the investigation or material collected by the SIT or whatever has been observed herein.

Disposed of.

July 26, 2018
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No