

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

Sr. No.223

CRM-M-9468-2016
Date of decision : 23.01.2018

Jan Mohd.

..... Petitioner

VERSUS

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Altaf Hussain, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

Mr. Ramandeep Kaur, Advocate for
Mr. Summet Goel, Advocate
for respondent No.5-CBI.

SUDHIR MITTAL, J.

This petition has been filed under Section 482 Cr.P.C. for a CBI inquiry of FIR No.471 dated 03.09.2015, registered at Police Station Punhana, District Mewat, under Sections 148, 149, 323, 302, 452 and 307 IPC and Section 25 of the Arms Act, 1959.

2. The case of the petitioner is that one Ushman Khan son of late Haji Ramzan Khan conspired with others and got an eighteen years old student and a five/six years minor girl killed and falsely implicated the petitioner and his entire family members in the above FIR No.471, dated 03.09.2015. This FIR has been registered because one Imtiyaj son of Nijra was killed. Said Imtiyaj was a supporter of Mohammed Talib son of the petitioner. During the Panchayat Elections in the year 2015, the opponent of Mohammed Talib son of the petitioner, was aforementioned Ushman Khan and the entire conspiracy has been hatched to discredit the petitioner and his

family members. Infact, Mohammed Talib son of the petitioner, was the first one to inform the Superintendent of Police, Mewat that Ushman Khan has got Imtiyaj son of Nijra killed. The family of the petitioner has been falsely involved so that none of them may get re-elected as Sarpanch. It is further the case of the petitioner that the father of the deceased viz., Nijra son of Sohab Kahn has also given a written affidavit to the DSP, Faridabad that his son was killed by Ushman Khan and yet challan has been presented and charges have been framed against the petitioner and his family members. He further submits that the DGP, Haryana, transferred the investigation in the said FIR to the State Crime Branch and without waiting for its report, the challan has been presented in a hurry by the local police in connivance with aforementioned Ushman Khan. Thus, it is stated that the investigation is faulty and biased. The inclusion of name of the petitioner in the charge-sheet, is a violation of his fundamental rights. Further, the police was not entitled to present the challan because the State Crime Branch has yet not concluded its investigation. Thus, it is pleaded that investigation of FIR No.471 dated 03.09.2015 may hand over to Central Bureau of Investigation.

3. Learned counsel for the petitioner in support of his contentions has placed reliance on **'Rubabbuddin Sheikh Vs. State of Gujarat and others, 2010 (2) SCC 200'** and **'Samaj Parivartan Samudaya Vs. State of Karnataka and others, 2012 (7) SCC 407.**

4. On the other hand, learned State counsel submits that after presentation of the challan, charges have been framed and recording of evidence has commenced. There are no special circumstances, warranting investigation by the CBI.

5. I have gone through the facts of this case and am of the opinion that no case for an inquiry on investigation by the CBI, is made out. The petitioner and others have been arrayed as accused in the report under Section 173 Cr.P.C. presented by the police. After framing of charge, recording of evidence is already in progress. The allegations of bias against the local police, are of general nature and I am not inclined to accept the same. In any case, the State Crime Branch is already seized of the matter as per the petitioner's own averments and there is no bias alleged against it. Its report will be placed before the trial Court, who will return its findings based on the evidence on the record. The trial Court possesses sufficient powers under Sections 311 and 319 Cr.P.C. even to proceed against the persons not named by the prosecution, if the evidence on record so suggests. The judgments relied upon by the learned counsel for the petitioner, are not attracted to the facts of this case.

6. Accordingly, the petition being wholly misconceived, is dismissed.

(SUDHIR MITTAL)
JUDGE

January 23, 2018

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No