

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

CRWP No. 1518 of 2013

DATE OF DECISION :- March 26, 2018

Surjit Kaur

Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Gautam Dutt, Advocate for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

Mr. Saurabh Bajaj, Advocate for respondent no. 5.

By way of filing the present Writ Petition under Section 226 of the Constitution of India read with Section 482 Cr.P.C., petitioner Surjit Kaur prays for issuance of Writ in the nature of Habeas Corpus for production of her daughter Davinder Kaur, who was married with Jaswinder Singh-respondent no.5. Since she has been missing since the intervening night of 16.5.2013 and 17.5.2013 and no action has been taken by the police to find her whereabouts inspite of registration of F.I.R. No. 493 dated 20.5.2013 at Police Station Karnal City, District Karnal. Alleging that F.I.R. has been got registered by respondent no. 5 as a cover up and petitioner has an apprehension that Davinder Kaur has been murdered by respondents no. 5 to 9, therefore, investigation of the F.I.R. be entrusted to Central Bureau of Investigation or some other independent agency.

Interalia in the petition, the petitioner has contended that her

daughter Davinder Kaur was married with Jaswinder Singh-respondent no. 5 about 19 years prior to filing of the petition and the couple was blessed with two sons; that the behaviour of respondent no. 5 and other family members arrayed as respondents no. 6 to 9 was not proper with Davinder Kaur and they used to maltreat her so as to force her to bring more dowry articles from her parents. Davinder Kaur used to be given beatings by them. Various Panchayats were held in that regard; on 7.5.2013 Davinder Kaur informed the petitioner that she had been given beatings by respondent no. 5 to force her to bring money from her parents to purchase shop. When she lodged a protest with with her husband, then he and other private respondents misbehaved with her; that on 17.5.2013 at about 7.40 A.M., respondent no. 5 made a call from his mobile phone to Daljit Singh son of the petitioner informing that Davinder Kaur had left the house. Then petitioner along with other relatives reached the matrimonial home of Davinder Kaur and made enquiries. Attitude of respondents no. 5 to 9 was very indifferent. Petitioner and her son Daljit Singh immediately went to Police Post Ram Nagar and lodged information regarding missing but neither any report was recorded nor any action was taken. However, on 20.5.2013, when petitioner and other respondents went to Police Post Ram Nagar for registration of F.I.R., it was informed by the local police that respondent no. 5 had already lodged F.I.R. No. 493 dated 20.5.2013 at Police Station Karnal City, District Karnal. The petitioner has an apprehension that Davinder Kaur has been murdered by respondents no. 5 to 9 and they have lodged F.I.R. which is to cover up their wrong acts.

According to the petitioner, no action has been taken in the matter despite representations having been submitted by her to the higher

police officers and to the Chairman of the National Commission For Women, New Delhi; that petitioner has been pressing for Polygraph test of respondents no. 5 to 9 but to no effect, as such she prayed that petition be allowed.

On notice, the respondents put in appearance. Deputy Superintendent of Police, Crime Against Women, Karnal filed a written reply on behalf of respondents no. 1 to 4 contending therein that after registration of F.I.R., the matter was investigated, during the course of which a public notice was got published in various newspapers. The strip along with photograph of Davinder Kaur was got played on local TV channel. Posters were pasted at public places at various cities of Haryana, Himachal Pradesh and Delhi. The investigating officer had visited various places in those states. In order to trace out Davinder Kaur, all the Canals passing from Karnal, all the Heads falling in Western Jamuna Canal were searched. Search was launched at various places where possibility of finding Davinder Kaur dead or alive was there. All unidentified bodies were matched with photograph of Davinder Kaur at various places in Haryana as well as in other States. Call details of phones of private respondents were obtained and investigated. Thereafter, a Special Investigation Team comprising DSP Karnal, SHO Police Station City Karnal, lady Inspector Incharge Women Cell was constituted, which investigated the matter on various lines.

That respondents no. 5 to 9 were made to join investigation and their statements were recorded. Statements of various other persons were also recorded. Polygraph test was conducted on respondents no. 5 to 9 but they were found to be innocent. Thereafter, another Special Investigation

Team comprising of Deputy Superintendent of Police, Crime Against Women, Karnal, SHO Police Station Sadar Karnal, Inspector Incharge CIO-I was constituted on 18.7.2013 and investigation was handed over to it, which is still going on.

The allegations levelled against local police are refuted contending that petitioner or her son Daljit Singh did not come present at police Post Ram Nagar, Karnal for lodging report of missing daughter of petitioner rather they did so during the course of investigation and that reasons offences under Sections 498, 323, 506 IPC were added.

In the written reply submitted on behalf of respondents no. 5 to 9, it is contended that there was no matrimonial dispute between Davinder Kaur and Jaswinder Singh and they were leading happy marital life. No demand of dowry etc. was raised by the private respondents and they never maltreated Davinder Kaur. As a matter of fact on 18.5.2013 at about 11.30 P.M., respondent no. 5 and his wife Davinder Kaur slept. When respondent no. 5 woke up at 5 a.m. on the next day, he found that Davinder Kaur was not there. Such respondent was under the impression that Davinder Kaur might have gone to the Gurudwara where she was in habit of going in the early morning hours but when she did not return home for a sufficient time, he launched a search for her on various places and enquired from the relatives etc. and thereafter lodged F.I.R. with the police. It is contended that the petition has been filed with an intention to harass and humiliate the present respondents lacks merit, therefore, it should be dismissed.

Subsequently, status reports were filed by the official respondents from time to time reporting about the stage of investigation.

I have heard learned counsel for the parties besides going through the record.

I do not find any lapse of law in the investigation being conducted by the local police. Every possible effort seems to have been made to locate Davinder Kaur. The Polygraph tests have been got conducted on the private respondents, who were fit to undergo that test but nothing came out of that. The private respondents do not come out to be so influential so as to make the official respondents act as per their wishes. There is nothing to show that such respondents are influencing the investigation or they are in a position to do so. Further more, I do not find any reason to reach a conclusion that the investigation carried out so far is biased or tainted.

Constitution of Special Investigation Team comprising senior police officers twice goes to point out the bonafide intention of the official respondents to take the things to a logical end and to find out whereabouts of Davinder Kaur and further whether she has died an unnatural death, if so the persons responsible for that. As such, I do not see any reason handing over the investigation to Central Bureau of Investigation or some other independent agency. From the reply filed by the official respondents and status reports submitted in the Court from time to time, it comes out that no clue has been found in the case. Therefore, the police may consider the desirability of filing untraced report in the case though the matter may be revived in case any clue is obtained while investigating other criminal cases.

Learned counsel for the petitioner has argued that a Sewadar of Gurudwara had come forward to provide the last seen evidence but the police has not investigated the matter from that angle. However, learned

State counsel has contended that the said Sewadar namely Sukha Singh son of Sahab Singh was contacted at Gurudwara Lado Bhai Ji, Karnal and joined in the investigation and when he was asked about the affidavit said to have been furnished by him, he stated that he did not want to give any statement to the police and further Sukha Singh was not found to be trustworthy person. He has drawn my attention to para no. 21 of the status report dated 15.1.2015 in that regard. Further more, the petitioner may file a private complaint in the Court of competent jurisdiction, if so advised.

The petition is dismissed accordingly.

(H.S. MADAAN)
JUDGE

March 26, 2018

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No