

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

CRM-M-809-2017

Date of decision:-27.2.2018

Balwinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

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

Present : Mr.Bikramjit Aroura, Advocate
for the petitioner.

Mr.Ramandeep Sandhu, Sr.DAG, Punjab.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. has been filed by petitioner Balwinder Singh craving for issuance of directions to official respondents No.1 to 6 for taking legal action against the culprits with regard to death of Babbu Singh, a brother of petitioner and to ensure free, fair, impartial investigation besides seeking protection for life and liberty of the petitioner and witnesses.

Inter alia, in the petition it is contended that Babbu Singh younger brother of the petitioner was married with Rajwant Kaur, arrayed as respondent No.7 in this petition, on 21.2.2008 and the couple was blessed with two children; that Babbu Singh was working as a hair dresser and his left leg was polio affected; that Rajwant Kaur had been

maintaining illicit relations with several persons, which gave rise to quarrel between her and her husband Babbu Singh; that one such quarrel had taken place on intervening night of 1/2.5.2016 and on 2.5.2016 at about 5:00 a.m., the petitioner while being on a morning walk got information that Babbu Singh had died; that according to him he was perplexed and was not able to assess any suspicious circumstances, therefore, dead body of Babbu Singh was cremated; that subsequently on 6.5.2016, the petitioner found mobile phone of Babbu Singh and it transpired that there were some conversation recorded between Rajwant Kaur and her paramour as well as Babbu Singh with his relatives; that Jobanpreet Kaur, minor daughter of deceased had also disclosed that on the fateful day, two unknown persons had come and they along with Rajwant Kaur had given beatings to Babbu Singh. In that way the petitioner is of the firm view that Rajwant Kaur along with her paramour and associates had murdered Babbu Singh.

The complainant had reported the matter to police but no action was taken under the influence of relatives of Rajwant Kaur – respondent No.7 forcing the petitioner to knock at the door of this Court by way of filing of the present petition.

On notice, the respondents appeared. The official respondents filed a joined written reply in the form of affidavit of Assistant Commissioner of Police, Licensing, Amritsar contending therein that at the time of death of Babbu Singh in his own house, his dead body was cremated by his family members including the present petitioner; that at that time neither the petitioner nor any body else from his family had any doubt regarding death of deceased and no

information was given to local police, therefore, no action could be taken by the police to ascertain the cause of death of deceased Babbu Singh; that after some days, the present petitioner submitted an application dated 9.5.2016, then application dated 23.5.2016 and thereafter on 15.6.2016 to the Commissioner of Police, Amritsar levelling allegations therein against Rajwant Kaur; that Rajwant Kaur had also moved an application dated 21.5.2016 levelling counter allegations against the petitioner; that all those applications were marked to the then Assistant Commissioner of Police (West), Amritsar City, who conducted a detailed, free, fair and impartial inquiry and submitted his report finding that there was no unnatural cause of death of Babbu Singh and allegations levelled by petitioner and respondent No.7 in their respective applications were not substantiated, as such, the same were recommended to be consigned to the office; that in the meanwhile, SHO PS Cantonment, Amritsar City was directed by the Inquiry Officer that the mortal remaining (bones/ashes) of the deceased, which had not been immersed in water by his family members, be sent for examination and further action would be taken if any new facts come forth; that it was so done. It is further contended that impartial detailed and thorough inquiry had been conducted in the matter and allegations levelled by the petitioner against the official respondents are wrong.

Initially reply was filed on 21.9.2017, whereas another reply was filed on 30.10.2017 mentioning therein that in compliance with the order passed by this Court, a fresh inquiry was conducted by Assistant Commissioner of Police (West), Amritsar, in which statements of witnesses, namely, Guljar Singh, Kulwant Singh and Jobanpreet Kaur

were recorded and it transpired that no injury had been observed on the dead body of deceased Babbu Singh and the petitioner had told the reason for death of Babbu Singh as cardiac arrest; that wife of deceased along with her children has been living at her parental house after death of her husband and she has not been given any share in the property and that petitioner with an intention to usurp the share of property of wife and children of the deceased want to get an FIR registered against respondent No.7 by levelling false allegations, however, no incriminating circumstances or evidence came out to be there during the inquiry.

Another status report was filed on 16.1.2018 wherein it was mentioned that as per report received from Chemical Examiner, Government of Punjab, Kharar, no poison was detected in the bones(ashes).

I have heard learned counsel for the parties besides going through the record and I find that no question mark could be put on the fairness of the police in carrying necessary probe in the matter. Admittedly, no post mortem examination was got conducted on the dead body of deceased and as per report received from the office of Chemical Examiner, no trace of any poison was detected in the bones (ashes) of the deceased. The minor daughter of the deceased, namely, Jobanpreet Kaur is also not said to have stated anything incriminating against Rajwant Kaur. Therefore, unless the police find that Babbu Singh had died a homicidal death, registration of the FIR and further investigation could not be there. The FIR is required to be registered if from the facts and circumstances of the case prima facie commission of some

cognizable offence is disclosed and not on the basis of bald and unconvincing allegations levelled by a person having a motive to do so. Therefore, no direction as craved for by the petitioner in the petition is required to be issued.

The petition being without merit stands dismissed accordingly.

(H.S.MADAAN)
JUDGE

27.2.2018
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No