

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

CRM-M No. 9105 of 2018

Date of decision : 29.11.2018

Neelam

.....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. M. S. Khillan, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

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DAYA CHAUDHARY, J.

Petitioner Neelam has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for transfer of investigation in case FIR No.434 dated 22.07.2017 under Section 306 of the Indian Penal Code, 1860 registered at Police Station – Gharaunda, Distt. Karnal.

Briefly, the facts of the case as made out in the present petition are that the petitioner is mother of deceased Vikram alias Shubham, aged 17 years, who died an unnatural death on 20/21.07.2017. Petitioner being the mother of the deceased lodged a complaint to the police and the FIR was registered on 22.07.2017 under Section 306 IPC against private respondent No.5 namely Ravinder alias Kati. No action was taken by the police. Thereafter, representations were made to the higher authorities. The accused were not arrested and they were roaming free and threatening the petitioner

to face dire consequences.

Learned counsel for the petitioner submits that names of the accused were mentioned specifically but the police was hand in glove with the accused persons and there was no progress in the investigation and the accused were not arrested, rather threat was given to the petitioner. Learned counsel also submits that the private respondents are influential persons and the police is not taking action against them. It was a case of murder, whereas FIR was registered under Section 306 IPC. The Investigating Officer was indirectly helping the accused persons and because of that reason, no action was taken. Learned counsel also submits that the petitioner would be satisfied in case the investigation of the case is conducted by an officer of the rank of Superintendent of Police outside the jurisdiction of Distt. Karnal or hand over to some independent agency like CBI.

Learned State counsel submits that status report was filed from time to time and no specific allegations are there against the Investigating Officer. All efforts have been made to investigate the matter. It cannot be said to be a case of 302 IPC as the son of the petitioner committed suicide. Polygraphic test of the suspect accused Ravinder Kumar was conducted but nothing came out. During the course of investigation, private respondents were joined in the investigation but no incriminating evidence came out against them. Learned State counsel also submits that a fair and impartial investigation has been conducted and it cannot be said that investigation is not fair.

Heard arguments of learned counsel for the petitioner as well as learned State counsel and have also perused the documents available on the file.

As per status report dated 20.08.2018, the investigation of the case was completed and allegations levelled by complainant were not proved and accordingly, cancellation report in the case was prepared on 14.08.2018.

After registration of the case, investigation was carried out. Postmortem examination of the deceased was conducted in Kalpana Chawla Government Medical College, Karnal and cause of death in this case was not given till the date of filing of the status report. Thereafter, an application for seeking permission to conduct polygraph test of the suspect namely Ravinder Kumar was allowed by J.M.I.C., Karnal vide order dated 21.11.2017. The polygraphic test was conducted on 24.07.2018 and following opinion was given:-

“The analysis and evaluation of polygrams do not reveal deceptive responses on the issues No. (i) to (iv). According to polygraph examination and analysis of polygrams Ravinder @ Kaaty is truthful in his answers on the issues No.(i) to (iv).

Note :- 1. The findings of this test are to be used in corroboration with actual evidence available in this case and to generate new leads in this case. 2. This report shall not be produced either in full or part without the approval of Director, FSL (H), Madhuban except by the judicial courts and investigating authorities related to the case. 3. The report is sealed with the seal of A.D. (LD)”

Prior to said report, reply was also filed by the respondent-State

on 19.04.2018, wherein it was mentioned that son of the petitioner was having love affair with one girl namely Tamanna. The son of the petitioner was forced to take poison as he was called at the railway station. Both of them consumed some poison. Her son died during treatment at Aparna Hospital. An FIR was registered against Ravinder alias Katti in Police Station Gharaunda (Karnal). During investigation of the case, Tamanna, Ramesh, Santosh and Aman were also joined and no incriminating evidence came out against them.

As per petitioner, it was not a case of suicide but was of murder at the instance of the private respondents because of love affair between the son of the petitioner and girl Tamanna and the son of the petitioner was given poison due to which he died. As per petitioner-complainant it is a clear cut case of murder, whereas as per investigating agency, it is a case under Section 306 IPC.

Undisputedly, the FIR was registered under Section 306 IPC without taking into consideration the outcome of FSL examination. As per case of the petitioner the investigating agency is hand in glove with the accused persons and no fair investigation is there.

By considering the submissions made by learned counsel for the petitioner and the facts and circumstances of the case, it would be in the interest of justice to hand over the investigation of the case to the Special Investigating Team (SIT) under the supervision of the Superintendent of Police. The investigation of the case shall be monitored by the Superintendent of Police to see as to whether the investigation is carried out

in a right direction.

Registry is directed to make available the copy of the petition along with replies/status report filed by the respondent/State and other records on the file to concerned Superintendent of Police within a period of one week from the date of receipt of certified copy of the order.

Superintendent of Police is also directed to hand over the case file to the officers so nominated for investigation.

It is also directed that the investigation of the case would be concluded within a period of two months from the date of receipt of certified copy of the order. During this period, any other proceedings pending anywhere shall remain stayed. The investigating agency may proceed further in accordance with law.

It shall be open to the accused persons to approach the appropriate forum to avail the appropriate remedy available to them.

29.11.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No