

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

CRM-M-9171 of 2018.

Decided on:-July 04, 2018.

Anita.

.....Petitioner.

Versus

State of Haryana and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Naresh Kumar, Advocate
for the petitioner.

HARI PAL VERMA, J.

Prayer in this petition filed under Section 482 Cr.P.C. is for issuance of directions to the official respondents to protect the life and liberty of the son of the petitioner, namely, Ajay alias Bittu as well as to hand over/ entrust the matter to some independent investigating agency like C.B.I. or a Court-Monitored S.I.T. etc.

It has been argued that son of the petitioner is in police custody. He had sustained injuries which are dangerous to life in a fake and fictitious encounter i.e. murderous attack by respondents No.4 to 7. The petitioner or her family members are not being allowed by the respondents to meet Ajay alias Bittu. The son of the petitioner has been involved in many cases in illegal manner. On 12.12.2017, one person, namely, Satyawar was murdered in Rohtak city and name of the son of petitioner had unnecessarily been dragged in his murder. On 18.01.2018, respondents No.4 to 7 conspired to murder the son of the petitioner and took him with them at some undisclosed

location and fired several rounds of bullets on the chest and legs of her son. Considering her son as dead, the respondents had taken him to PGIMS, Rohtak, though he survived the murderous attack of the respondents. Presently, he is taking treatment in PGIMS, Rohtak in the strict supervision and presence of the respondents.

Counsel for the petitioner has further contended that the son of the petitioner had seriously been injured in the fake encounter and, therefore, the matter needs to be thoroughly probed. In support of his contentions, he has relied upon judgment of this Court in ***Prem Singh Versus State of Punjab 2005(4) RCR (Criminal) 907*** and the judgments of Hon'ble Supreme Court in ***R.S. Sodhi Versus State of U.P. and others 1994 AIR (SC) 38*** and ***Rohtash Kumar Versus State of Haryana through the Home Secretary, Government of Haryana, Civil Secretariat, Chandigarh and others 2013(2) RCR (Criminal) 321***.

I have heard learned counsel for the petitioner.

The son of the petitioner is already getting treatment from PGIMS, Rohtak and the police must have produced him before the concerned Magistrate, but no such details have been furnished. Had there been any fake encounter or he was given injury in the manner narrated by the petitioner, the injury should have been pointed out to the concerned Magistrate at the time when he was produced in the Court.

The judgments cited by learned counsel for the petitioner have no relevance in the facts and circumstances of the present case as it has been held by Hon'ble Supreme Court in a recent judgment in ***Bimal Gurung***

Versus Union of India and others 2018 AIR (SC) 1459 that the power of transferring investigation to other investigating agency must be exercised in rare and exceptional cases where the Court finds it necessary in order to do justice between the parties to instill confidence in public mind, or where the investigation by the State Police lacks credibility. The relevant paragraph No.26 of the said judgment is reproduced as under:

*“26. The law is thus well settled that power of transferring investigation to other investigating agency must be exercised in rare and exceptional cases where the Court finds it necessary in order to do justice between the parties to instil confidence in the public mind, or where investigation by the State Police lacks credibility. Such power has to be exercised in rare and exceptional cases. In **K.V. Rajendran v. Superintendent of Police, CBCID South Zone, Of Police, (2013) 12 SCC 480**, this Court has noted few circumstances where the Court could exercise its constitutional power to transfer of investigation from State Police to CBI such as: (i) where high officials of State authorities are involved, or (ii) where the accusation itself is against the top officials of the investigating agency thereby allowing them to influence the investigation, or (iii) where investigation prima facie is found to be tainted/biased.”*

Therefore, this Court does not find any material enough to interfere at this stage. Accordingly, the present petition, being devoid of any merit, is dismissed.

(HARI PAL VERMA)
JUDGE

July 04, 2018
Yag Dutt

Whether speaking/reasoned: Yes

Whether Reportable: No