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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 3406/2017**

KRISHAN KUMAR

... Petitioner

Represented by: Mr.Rakesh Sherawat with
Mr.Rampal Tokas and
Mr.Kamal Choudhary,
Advocates

versus

THE STATE GOVT OF NCT OF DELHI & ORS ... Respondents

Represented by: Ms.Nandita Rao, ASC for the
State with ASI Surender, PS
Vasant Vihar

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

01.05.2018

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1. By this petition the petitioner seeks a writ of mandamus for transfer of FIR No.377/2017 under Sections 304/34 IPC registered at PS Vasant Vihar to any other Branch, Unit, Cell or Agency for a fair and expedited investigation.

2. Grievance of the petitioner is that the petitioner's elder son Surender Kumar was married to Pushpa Rani whose behaviour was harsh towards other family members since her marriage. After marriage, they lived at H.No.99-A, village Munirka, New Delhi. At the time of marriage, one friend of Pushpa Rani namely Kusum Chauhan came and also stayed with them for 3-4 months. When this was objected to by the petitioner and his son, Kusum Chauhan left the house but remained involved in the personal

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affairs of Pushpa Rani. Behaviour of Pushpa Rani was cruel towards the in-laws and she used to fight on petty issues with the son of the petitioner.

3. Petitioner further contends that his son Surender was not financially sound and his other sons were helping him financially. Pushpa Rani had an evil eye on the property No.99-A, village Munirka, New Delhi and thus in conspiracy with Kusum Chauhan she started threatening Surender for making arrangements for grabbing of the property which was not acceded to by Surender. When Surender refused to become part of her illegal activities, Pushpa Rani threatened him that she would kill him and his family members by throwing acid in which regard NCR No.503/2015 was lodged at PS Vasant Vihar. Pushpa Rani when failed in her planning, pressurized Surender by not giving him meals due to which he developed Tuberculosis. It is the case of the petitioner that on 27th April, 2015, Pushpa Rani and her daughter i.e. the grand-daughter of the petitioner dragged the deceased on the stairs and pushed him from there. The deceased was initially taken to Hygiea Hospital, Munirka where alleged history was given as suicidal attempt. Therefore, he was referred to AIIMS where the history was given as fall from stairs. Finally, Surender succumbed to injuries and died on 10th May, 2015. Since despite the complaint of the petitioner, no FIR was registered, petitioner filed a complaint case before the learned Metropolitan Magistrate on whose directions, FIR No.377/2015 under Sections 306/34 IPC was registered at PS Vasant Vihar.

4. The petitioner is dissatisfied with the investigation. He states that there were number of eye witnesses to the incident however, no statement of any witness has been recorded.

5. On a perusal of the petition, when this Court asked, learned counsel for the petitioner as to the names of the eye witnesses who had witnessed the incident not being mentioned in the petition, learned counsel fairly submits that the names of the eye witnesses have not been mentioned in the writ petition.

6. A Status Report has been filed. As per the Status Report, it is revealed that there are complaints from both the sides and FIRs thereon have been registered. The cause of death of Surender has been opined to be “*shock due to septicaemia which could be possible in the above mentioned circumstances*”, i.e. as noted in the brief facts. Admittedly, Surender was suffering from Pulmonary Tuberculosis, Bipolar affective disorder and Type-2 Diabetes.

7. Be that as it may, the investigation in FIR No.377/2017 is in progress. Learned Additional Standing counsel for the State submits that the investigation will be finalized within four weeks and a report in regard thereof would be submitted to the competent Court.

8. Since the petitioner would have his remedy available in law in case a cancellation report is filed, this Court finds no ground to pass any further order except that as submitted by the learned Additional Standing Counsel, the report before the concerned Court will be filed within four weeks. Needless to state, parties would be at liberty to take further action in accordance with law.

9. Petition is disposed of.

MAY 01, 2018

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MUKTA GUPTA, J.

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