

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 319 of 2016

Bahadur Singh Kanwar S/o Late Shri Jang Singh Kanwar,
Aged About 43 Years R/o Quarter No. 541/3, R T S
Colony, Bilaspur, Chhattisgarh, Chhattisgarh
---- **Petitioner**

Versus

1. State of Chhattisgarh through the Secretary, Department of Home & Police, Mantralaya, Mahanadi Bhawan, Raipur, Chhattisgarh.
2. The Director General of Police, Raipur, Distt. Raipur, Chhattisgarh.
3. The Inspector General of Police, Bilaspur, Distt. Bilaspur, Chhattisgarh.
4. The Collector, District Janjgir Champa, Chhattisgarh
5. The Superintendent of Police, District Janjgir Champa, Chhattisgarh.
6. The In Charge Director, Medico Legal Institute Home Police Department, Government of Chhattisgarh
7. The Station House Officer, Police Station Nawagarh, District Janjgir Champa, Chhattisgarh
8. Tosharam Patel, Patwari, Kanungo Karyalaya, Tahsil Hasoud, District Janjgir Champa, Chhattisgarh.
9. Dayaram Sahu, Patwari, Kanungo Karyalaya, Tahsil Bamhindih, District Janjgir Champa, Chhattisgarh.
10. Sanjay Lahare, Patwari, Kanungo Karyalaya, Tahsil Malkharouda, District Janjgir Champa, Chhattisgarh. ---
Respondents

For the applicant : Mr. Samir Singh, Advocate
For the State : Mr. Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

04.2.2019

1. The prayer made in the instant petition is to issue a direction commanding the Respondent State Authorities to register FIR against respondents 8 to 10 and conduct fair investigation into death of Arvind Singh Kanwar who died on 10.12.2105 in Mereg No.64/2015 or in the alternative prayer has been made to issue writ, order or direction for conducting fresh investigation by the CBI, CID or any other investigating Agency.
2. As per the State, the deceased was travelling on his two-wheeler while he was in drunken condition and met with an accident wherein he sustained head injury which results in his death. The petitioner herein is uncle of deceased who has stated that proper investigation was not carried out and the suspected persons were not interrogated and they are still at large. It is further contended that during the morgue enquiry, it revealed that motorcycle was found lying away at a distance of 47 ft., from the dead body which was lying on the road, therefore, it virtually amounts to homicidal death and the possibility of murdering the victim by suspected persons cannot be denied and the real facts can be ascertained only by conducting proper fair investigation .
3. Per contra, learned State Counsel opposes the same. He submits that as per the information, the charge was filed and during investigation the viscera of deceased was preserved and the FSL report thereof reveals that 90/100 gram ethyl alcohol was present in the viscera of deceased, which might have caused the accident. He further submits that thorough investigation, Crime

No.116/2016 for the offence punishable u/s 304-A of IPC was registered.

4. Be that as it may, the incident appears to be of the year 2015 i.e., more than 3 years have passed and the charge sheet has been filed. Apparently, at present, all the evidence on the spot are missing. Therefore, at this stage, even if the investigation is ordered no purpose would be served. It is for the petitioner to seek appropriate remedy if so advised and take measures before the court below wherein the charge sheet u/s 304-A was filed.
5. The petition is disposed of with the aforesaid observation.

Sd/-

**GOUTAM BHADURI
JUDGE**