

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

COCp-214-2017 (O & M)

Date of decision: 14.05.2019

Mahender Petitioner

V/s

N.K. Solanky, Deputy Commissioner, Fatehabad

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. S.S. Sahu, for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Rajan Gupta, J. (Oral)

Petitioner alleged that on 12.07.2016, police suddenly entered into the house of the petitioner and tried to molest his wife. As she resisted, two and a half month's old infant namely Hardil fell down and sustained injuries and he later succumbed to the same. Criminal petition bearing CRM-M No. 34914-2016 was filed before this court. Without expressing any opinion on the merits, this court directed the Deputy Commissioner, Fatehabad to decide the representation dated 28.07.2016 moved by petitioner by passing a speaking order within three weeks of receipt of order.

A query was put to learned State counsel about the reasons of the police entering the house of the petitioner, he took the stand that FIR No.400 dated 12.07.2016 under Sections 186, 332, 353 IPC and 61/1/14 Excise Act was registered as it was suspected that liquor was stored in the house of the petitioner. According to him, police officials were only performing their duties.

Admittedly in the episode, the child died. Thereafter, an enquiry was conducted. The Deputy Commissioner gave his report dated 14.12.2016. It was reported that child died on account of deficiency of Vitamin K. As there were number of issues, which needed clarification, an inquiry by the OSD (Vigilance) was ordered. Report was received on 30.05.2017. Meanwhile, the State registered an FIR against the police officials under Section 304 IPC. Vide order dated January 21, 2019, a copy of the report of OSD (Vigilance) was handed over to learned State counsel. It has been informed that the said report now forms part of the challan and the proceedings before the trial court are in progress.

However, learned counsel for the petitioner has raised a plea that offence under Section 304 IPC has been diluted to Section 304-A IPC while presenting the challan. He further submits that three of the four accused have been found to be innocent in the final report. He, thus, prays that he may be allowed to move appropriate application before the trial court to raise grievance, if any, in this regard. Liberty as prayed for is granted.

In view of the above, no further adjudication by this court is necessary. Needless to observe that if any application of aforesaid nature is moved by the petitioner, it shall be considered as per law. Petition is, thus, disposed of. Rule is discharged.

May 14, 2019
sukhpreet

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No