

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

CRM-M-20937-2010 (O&M)

Date of decision : 17.12.2019

Amandeep Kaur and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Ms. Harpreet Kaur, Advocate for
Mr. Navkiran Singh, Advocate for the petitioners.

Mr. Hittan Nehra, Additional Advocate General, Punjab.

ANIL KSHETARPAL, J.

On account of the death of Amarjit Singh in prison due to lack of proper medical care and attention on 09.02.2010, the present petition has been filed.

Petitioners are widow and son of deceased late Sh. Amarjit Singh. The present petition has been filed with following substantive prayers:-

- “i) that this Hon'ble Court may mark an enquiry to the learned Sessions Judge, Ferozepur into the custodial death of the husband of the petitioner namely Amarjit Singh who died under suspicious circumstances in Central Jail, Ferozepur on 8.2.2010.*
- ii) With the further prayer that this Hon'ble Court may recommend criminal as well as departmental action against the jail officials who are responsible for the loss of life of Amarjit Singh directly or indirectly.*
- iii) with the further prayer that the petitioner and other*

legal heirs should be compensated to the tune of Rs. 10 Lacs for the loss of the life of Amarjit Singh in judicial custody on the lines of pronouncements of Supreme Court of India and this Hon'ble Court and as an interim measure grant Rs. One Lac as partial compensation to be paid to the petitioner outrightly, as the jail authorities prima facie failed to protect the life and liberty of the petitioner's husband as provided under Article 21 of Constitution of India.”

It has been pleaded that late Sh. Amarjit Singh alongwith petitioner No.2-Manjit Singh had surrendered on 25.02.2010 before the Judicial Magistrate Ist Class in FIR No.158 dated 25.11.2005 registered under Sections 440, 427, 447, 448, 34 IPC at Police Station Makhu and sent to judicial custody by an order of the same date. Deceased Amarjit Singh was approximately 48 years old. It is claimed that condition of deceased deteriorated inside the jail on 08.02.2010. He was taken to Civil Hospital from where he was referred to Guru Gobind Singh Medical College and Hospital, Faridkot and on reaching there, he was declared “brought dead”.

Keeping in view the facts of the case, learned Chief Judicial Magistrate was directed to hold enquiry vide order dated 12.08.2013. Learned Chief Judicial Magistrate has submitted a detailed report sent to this Court vide communication dated 08.01.2014. The concluding part of the report is extracted as under:-

“6. From the statements of L.Rs of deceased and from the statements of jail officials it is found that the jail authorities are silent about the fact that when the deceased was lodged in Central Jail, Ferozepur on 05.02.2010 what medical assistance was given to deceased Amarjit Singh while he was not feeling well in the jail. There is no such record on

the file that what treatment was given to Amarjit Singh in the Central Jail from 05.02.2010 to 07.02.2010, Nothing suggests that during that period the deceased was ever provided with the first aid and proper medical assistance at that time. No doubt it is on the record that Dr.Rajiv Joshi, Associate Professor, G.G.S.Medical College and Hospital, Faridkot opined that the cause of death of deceased Amarjit Singh is acute tubular necrosis and as per statement of jail officials deceased was addict of poppy husk even then if it is presumed that deceased died a natural death on account of acute tubular necrosis, it was the duty of jail authorities to provide necessary medical aid to save life of Amarjit Singh who was between the age of 45 to 48 years. In view of the above it is found that jail authorities were negligent at some point or the other in providing first aid and necessary medical treatment at relevant time. Hence the report is submitted for kind perusal. ”

On perusal of the aforesaid report, it is apparent that timely medical assistance was not provided to the deceased-Amarjit Singh on 05.02.2010, when he was not feeling well. Further there is no record as to what treatment was given to late Sh. Amarjit Singh when he was confined in the Central Jail from 05.02.2010 to 07.02.2010.

Question which arises for consideration before this Court is “what should be the amount of appropriate compensation?”

This issue has been examined by the Hon'ble Supreme Court as well as this Court in various petitions. It has been held that the jail authorities are duty bound to ensure appropriate protection of a person taken into custody which includes proper medical care. While interpreting Article 21 of the Constitution of India, it has been held that the prisoners or the

under trials are not denuded of their rights available under Article 21 of the Constitution of India. It is obligatory on the part of the State to ensure that there is no infringement on the indefeasible rights of a citizen to the life except in accordance with law. Reference in this regard can be made to following judgments relied upon by learned counsel for the petitioners:-

- 1) *(2017) 10 SCC 658, Re-Inhuman Conditions in 1382 Prisons with I.A. No.68248 of 2017,*
- 2) *AIR 1997 (SC) 610, D.K. Basu Vs. State of West Bengal,*
- 3) *AIR 1993 (SC) 1960, Smt. Nilabeti Behera alias Lalita Behera Vs. State of Orissa and ors.,*
- 4) *(1991) 3 SCC 482, Supreme Court Legal Aid Committee Through its Hony. Secretary Vs. State of Bihar and others,*
- 5) *2018(2) PLR 3, Rekha Rani and another Vs. State of Haryana and others,*
- 6) *2016(4) RCR (Criminal) 951, Gurbaj Singh Vs. State of Punjab and others,*
- 7) *2014(39) RCR (Civil) 224, Sarla Devi Vs. State of Haryana and others,*
- 8) *2013(1) RCR (Criminal) 51, Balwinder Kaur Vs. State of Punjab and others,*
- 9) *2011(22) RCR (Criminal) 824, Hawa Singh and another Vs. State of Haryana and others,*
- 10) *2009(sup) CutLT (Criminal) 568, Ahalya Pradhan Vs. State of Orissa & others*

Learned counsel for the State has drawn attention of the Court

to the instructions issued by the State Government dated 04.02.2013 providing for compensation of ₹1,00,000/-. He submitted that in view of the aforesaid instructions, the amount of ₹1,00,000/- be awarded.

On careful reading of the instructions dated 04.02.2013 which have been placed on file, it is apparent that the aforesaid instructions are providing for interim compensation and maximum amount is required to be fixed based on the facts of the case.

This Court is also required to keep in mind the fact that the decision of the present case has taken a period of 9 years and during all this time, petitioner No.1 stood deprived of the compensation when it was most needed/required.

Keeping in view the facts of the case, this Court is of the considered opinion that the ends of justice would be met if the State is directed to pay compensation of ₹5,00,000/-.

This order has been passed keeping in view the fact that now if petitioner No.1 is relegated to the remedy under the civil law, her suit is likely to be rejected being time barred. However, this Court is not giving any final opinion on the limitation.

Accordingly, the present petition is allowed to the extent noted above.

17.12.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No