

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20769-2017 (O&M)

Date of decision: 11.01.2019

Bhagwana Ram

.....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Mr. Kartar Singh, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Sandeep Punchhi, Advocate for respondent No.5.

Mr. K.B. Raheja, Advocate for respondent No.6.

Mr. S.S. Mor, Advocate for respondent No.7.

Kuldip Singh, J. (Oral)

Petitioner has moved before this Court by filing a petition under Section 482 Cr.P.C. for transferring the investigation of FIR No.370 dated 14.10.2016 (Annexure P-1) under Sections 201, 302, 34 IPC, registered at Police Station Rania, District Sirsa to some independent agency or CBI or some Senior Police Officer.

Brief facts of the case are that one Pawan Kumar was picked up by ASI Mahender Singh, ASI Tara Chand and HC Ashok Kumar and some other police officials on 13.10.2016. He was allegedly beaten up in the police station after removing his clothes. On the intervening night of 13/14-

10.2016, Pawan Kumar alleged to have died due to hanging. According to the police version, he had committed suicide. The petitioner claims that it was a murder, therefore, police is not properly investigating the case. Therefore, the matter should be handed over to some other agency or CBI.

Reply of Dr. Deepak Kumar Medical Officer, now posted at CHC Nathusari Chopra, Sirsa on behalf of respondent No.8 is taken on record.

State was directed to file status report and the same was filed. Later on, this Court was informed that SIT was constituted on 12.07.2017 and after investigation, SIT has prepared the challan against the defaulting officials.

I have heard learned counsel for the parties and carefully gone through the file.

First of all it needs to determine whether death is due to hanging and is suicidal in nature or is homicidal by strangulation. Perusal of the postmortem report indicates that death is due to hanging and ligature mark of size 42 cm in length and 1.5 cm to 3.5 cm in breadth was found around the neck. About six injuries were also found on the dead body which are brownish black due to healing which indicates that injuries were older than 12 hours. Pawan Kumar is stated to have died after his arrest within 12 hours. The affidavit of Dr. Deepak Kumar, Medical Officer was also sought. The doctor after going through the report of the Chemical Examiner, Histopathology and FSL, has opined that a board was constituted and the doctors have come to the conclusion that death in this case is due to hanging which is sufficient to cause death in ordinary course

of nature. The six injuries found on the dead body were old injuries. Therefore, the medical evidence suggests that death of Pawan Kumar was not homicidal. The status report dated 11.03.2018 filed by way of affidavit of Manisha Choudhary, IPC Superintendent of Police, Hisar shows that SIT conducted the investigation and found that death is suicidal. However, at the same time, it found that Pawan Kumar who was in habit of theft, was picked up by ASI Mahender Singh, ASI Tara Chand and HC Ashok Kumar. One LCD, CPU and many other electronic items were recovered from house of the petitioner. He was brought to the police Station for further interrogation and was illegally confined in lock-up, for which, no entry was made. Later on, in order to cover up the matter after the death of Pawan Kumar, ASI Mahender effected false arrest and false recovery of inventer from the deceased in a previous untraced case FIR No.88 dated 30.03.2016 under Sections 457/380 IPC, PS Rania. Therefore, after investigation, challan under Sections 193, 196, 199, 200, 342 IPC read with Section 34 IPC has been presented against ASI Mahender Singh, ASI Tara Chand and HC Ashok Kumar which is under checking in Prosecution Branch, office of District Attorney, Sirsa.

As per learned State counsel, the challan was presented on 24.09.2018 and is now pending for consideration on framing of charge.

Learned counsel for the petitioner contends that the accused should be charged with abetment to suicide since the deceased was beaten up after removing his clothes which amount to abetment to suicide.

I am of the view that matter is pending before the trial Court and

it is for the trial Court to decide as to which sections are attracted in the present case. The present petitioner can be given a liberty to appear before the trial Court and press for the additional charges whatever he feels to be correct. It being so, there is no ground to refer the matter to any other independent agency.

Petition is accordingly disposed of. Petitioner is however granted liberty to appear before the trial Court and make submissions at the time of framing of charge to press for additional charges. It is made clear that it is for the trial Court to take independent decision on the merits as to what offence are made out from the evidence collected by the prosecution.

(KULDIP SINGH)
JUDGE

11.01.2019
anju rani

Whether speaking/ reasoned:	Yes
Whether Reportable:	No