

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

**CRM-M No. 25396 of 2016
Date of Decision:-12.09.2019**

Avdhesh Kumar and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present:- Mr. Saurabh Singla, Advocate for
Mr. Pardeep Bajaj, Advocate
for the petitioners.

Mr. Ramdeep Partap Singh, DAG, Punjab.

Mr. S.S. Behl, Advocate
for respondents No.6 to 10.

MANOJ BAJAJ J.

Petitioners Avdhesh Kumar and Phagu Ram have jointly filed this petition under Section 482 Cr.P.C. for issuance of directions to the official respondents No.1 to 3 to get the DDR No.23 dated 30.5.2016 recorded at Police Station Dehlon, District Ludhiana, Punjab for investigation through some senior IPS officer, which pertains to the alleged homicidal death of their respective sons, namely, Vishal Kumar Jha and Mukesh Kumar. As per the petitioners, they had migrated from U.P. and their sons were doing well. Vishal Kumar Jha, who was 21 years old, was a

meritorious student and was pursuing his B.Com 4th semester at Government College Karamsar under the Panjab University, whereas the other victim, namely, Mukesh Kumar was 24 years old and got married on 10.5.2016 and was working with leading construction company L&T at Ghaziabad Office. They both were childhood friends and were like brothers to each other. It is the case of the petitioners that Vishal Kumar Jha fell in love with Nikku and were keen to marry each other. They both used to meet frequently and the family of the petitioner No.1 agreed to the said affair, however, the brother of the girl i.e. Respondent No.9-Shubham and other family members did not accept this relation. Respondent No.9-Shubham alongwith respondents No.6,7 and 8 had threatened Vishal Kumar Jha and Mukesh Kumar and asked them to stay away from Nikku. However, the couple continued with their affair.

According to the petitioners, on 29.5.2016 Arun Kumar Tiwari came to the house of petitioner No.1 and took away Vishal Kumar along with him by saying that they have to get a map of Model Town. The other private respondents were also with him. According to the petitioners in the evening at about 6.00 p.m. he came to know that his son Vishal has died of drowning. The mobile phone and purse of his son was given to his younger brother by respondent No.6-Arun Kumar. The matter was reported to the police, however, the petitioner hired private divers by paying Rs.14,000/- and on the next day the divers fished out the body from the river after 18 hours. The inquest proceedings were carried out and DDR in question bearing No.23 dated 31.5.2016 (Annexure P-4) was recorded.

It is the grievance of the petitioner that despite having expressed their suspicion regarding homicidal death of the victims, no FIR was registered. According to them it was a case of honour killing and the police has closed the case hastily. Learned counsel for the petitioners invited the attention of the Court to the photographs to show the love affair as well as the photographs of the dead bodies to contend that they were forcibly drowned. On these broad grounds the intervention of this Court has been sought for invoking inherent powers under Section 482 Cr.P.C.

In response, the reply by way of affidavit of Gurjeet Singh, ACP, Gill, Ludhiana was filed on behalf of respondents No.1 to 3 alongwith copy of Post Mortem Report. As per the stand of the official respondents, the information was received from the Control Room Ludhiana on 29.5.2016 and on the next day both the dead bodies were recovered and identified by the petitioners. DDR was registered. It is further mentioned in the reply that on 16.6.2016 an application, bearing CR No.956557 was given by petitioner No.1 against respondents No.6 to 10, which was addressed to the Commissioner of Police, Ludhiana, whereupon, a detailed inquiry was conducted and it was found that Vishal Kumar alongwith other friends had gone for bath in canal, who suddenly drowned with the other two friends, namely, Avdesh Kumar and Mukesh Kumar. There four other friends were also present, who raised hue and cry and the people present at the spot tried to save them and successfully rescued Avdesh Kumar from drowning. Unfortunately son of petitioners No.1 and his friend Mukesh Kumar went into deep water and died. It was highlighted that the cause of

death was drowning as there was no internal or external injuries on the body of Mukesh Kumar.

The reply further mentions the fact that two persons, namely, Hakam and Balwant Singh, who were going towards Dehlon side on 29.5.2016, had seen the boys bathing in canal and asked them not to bath in the canal as it was dangerous. However, their advice was ignored and when they returned from Dehlon, they came to know about drowning of two boys in the canal. The statement of those two persons was also recorded separately by the police on 30.5.2016. Regarding the Post Mortem Report, it was mentioned that there was no external injury present on the dead body as the death was due to asphyxia.

Learned counsel for the petitioners contends that the clothes of the victims were not found and he has referred to the photographs of the dead bodies to contend that it is apparent that their hands were tied and were forcibly drowned. A perusal of the Post Mortem Report reveals that as per opinion of the doctors, the cause of death was due to asphyxia, due to drowning. It was also noticed that there were no external marks of injuries, however, the rigor mortis was also present.

The private respondents No.6 to 10, represented by Mr. Behl filed their separate reply, who have denied the averments made in the petition. According to them the allegations levelled by the petitioners are baseless and frivolous.

After hearing learned counsel for the parties, this Court does not find any lapse in the inquiry by the police, as argued by learned counsel

for the petitioners as the matter was deeply looked into by the police and statements of the relevant persons were recorded. It is not in dispute that petitioner No.1 did not object when his son left the house alongwith Arun Kumar. Even if it is assumed that there was a love affair between Vishal and Nikki, then also the allegations set up by the petitioners have not been substantiated with any convincing material. Moreover, in the light of the statements given by various persons including the villagers who had rescued one of the victim, namely, Avdesh Kumar, it appears to be a mishap.

Considering the above, this Court does not find any reason to invoke the inherent powers under Section 482 Cr.P.C. for issuing any direction as prayed for.

Resultantly, the petition is dismissed.

September 12, 2019
Vijay Asija

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No