

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

CRM-M-28382 of 2017.

Decided on:- July 15, 2019.

Gurpreet Singh.

.....Petitioner.

Versus

The State of Punjab and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Gopal Sharma, Advocate
for the petitioner.

HARI PAL VERMA, J.

The petitioner has filed present petition under Section 482 Cr.PC seeking issuance of directions to respondents No.1 and 2 to conduct a fair investigation in FIR No.165 dated 21.08.2016 under Section 306 read with Section 34 IPC (later on offence under Section 302 IPC was added) registered at Police Station Samrala, District Ludhiana and further to entrust the investigation of the case to some higher police official not below the rank of A.D.G.P. or some other independent agency like C.B.I.

The aforesaid FIR was registered at the behest of the petitioner. As per the FIR, Rupinder Kaur, elder sister of the petitioner was married with respondent No.4 Sukhbir Singh about 12-13 years ago. One son, namely, Manjovan Singh was born out of this wedlock. However, the in-laws of Rupinder Kaur used to harass her. Respondent No.4 Sukhbir Singh had illicit relations with his *Bhabhi* Hardeep Kaur-respondent No.5 and for this reason, Rupinder Kaur (since deceased) used to remain in depression. She was harassed by her mother-in-law, Gurcharan Kaur-respondent No.7 and father-

in-law Tara Singh-respondent No.6. At times, the deceased had seen Sukhbir Singh with his *Bhabhi* Hardeep Kaur and this fact was disclosed by the deceased to the petitioner. Once or twice, the petitioner had visited the house of in-laws of his sister to make them understand, but they did not stop their misdeeds.

On 20.08.2016, all the accused in collusion with each other, administered poison to Rupinder Kaur and Manjovan Singh. Thereafter, they took them to village Harbanspura and without informing the petitioner, had taken them to Apollo Hospital, Ludhiana. At about 06.15 P.M., the petitioner received a call from respondent No.4 Sukhbir Singh to the effect that Manjovan Singh and Rupinder Kaur were suffering from vomiting and they were taking them to Apollo Hospital, Ludhiana. Thereafter, Rupinder Kaur died and Manjovan Singh was referred from Apollo Hospital, Ludhiana to New DMC, Ludhiana. At about 03.00 A.M. in the morning, the petitioner came to know that Manjovan Singh had also died. The petitioner-complainant is sure that Rupinder Kaur and Manjovan Singh were administered poison forcibly by accused Tara Singh, Gurcharan Kaur, Hardeep Kaur and Sukhbir Singh.

Learned counsel for the petitioner has argued that on 20.08.2016, the petitioner had come to know that his real sister Rupinder Kaur and her son Manjovan Singh are hospitalised and are in critical condition. Therefore, the petitioner and his family reached the hospital. However, Rupinder Kaur died in the hospital, whereas Manjovan Singh was referred to New DMC, Ludhiana, who also died. When the petitioner had enquired from respondent

No.4 for the reason of their death, different reasons were given. Therefore, the present FIR was registered. Respondents No.4 to 7 had stated to the police that Rupinder Kaur and her son had died due to consumption of some poisonous substance. The petitioner had repeatedly asked the police to apprise him about the progress in the investigation, but the police did not disclose true facts. Therefore, the petitioner and his family enquired at their own level to know about the cause of unnatural death of Rupinder Kaur and Manjovan Singh and came to know that accused-respondents No.4 to 7 have killed Rupinder Kaur and Manjovan Singh in collusion with each other. When they were putting Rupinder Kaur in vehicle, at that moment, Manjovan Singh came from his school and saw the culprits. When Manjovan Singh tried to call his maternal uncle (petitioner herein), respondents No.4 to 7 with an intention to save themselves, murdered him as well. They were intentionally taken to Kural Hospital, Khanna and thereafter, to Civil Hospital, Doraha and then to Satguru Partap Hospital (Apollo Hospital), Ludhiana. The facts were elaborately disclosed to the police, but the police did not take any action and had not arrested the accused. The accused are repeatedly pleading that deceased Rupinder Kaur and Manjovan Singh died due to consumption of some poisonous substance. The petitioner and his family made efforts to collect the report of chemical examination under the Right to Information Act and got the copy of the chemical examination report. After perusal of the said report, the petitioner was astonished, as in that report, it was specifically mentioned that no poison was detected. This fact was brought to the notice of the police.

He has further argued that respondent No.4 is a man of dubious character, as the petitioner has come to know that earlier, he was married with one Baljit Kaur and she was also tortured and turned out from the house. Baljit Kaur also filed a petition under Section 125 Cr.PC against respondent No.4. Considering the conduct of respondent No.4, the petitioner made a representation to respondent No.8-Director Bureau of Police (Crime) for fair investigation. The petitioner is praying for justice and punishment of guilty persons, however, on account of extraneous consideration and in collusion with the accused, the police is not initiating the investigation properly and in a fair manner.

Learned counsel for the petitioner has further contended that considering the seriousness of the matter and nature of allegations, fair investigation is required in the case. He has referred to ***Dinubhai Boghabhai Solanki Versus State of Gujarat and others 2014(2) RCR (Criminal) 19*** wherein Hon'ble Supreme Court has held that when the High Court has, *prima facie*, found that investigation has not been conducted by the police impartially and fairly, the investigation was transferred to C.B.I. Reliance has also been placed upon ***Dharam Pal Versus State of Haryana and others 2016(1) RCR (Criminal) 926*** to contend that the Constitutional Court can order *de novo* investigation and fresh trial by any investigating agency at any stage of trial. The very object of such direction is to have fair investigation and fair trial.

He has also relied upon ***Bharati Tamang Versus Union of India and others 2014(3) RCR (Criminal) 347*** to contend that where genuine

grievance is brought to notice of Court regarding deficiency in investigation or when deficiency in investigation or prosecution is visible or can be perceived by lifting the veil and thereby tried to hide the realities, the Court should deal with the same with the iron hand appropriately within the framework of law. Accordingly, in appropriate cases, when the Court feels that the investigation by the police authorities is not in a proper direction and in order to do complete justice in the case as the high police officials are involved in the said crime, it was always open to the Court to hand over the investigation to the independent agency like C.B.I. Mere framing of charge-sheet is no ground to deny handing over the investigation to any independent agency.

On the other hand, reply in the case by way of affidavit of Gurvinder Pal Singh, Deputy Superintendent of Police, Sub-Division, Samrala, Police District Khanna, District Ludhiana has been filed on behalf of respondents No.1 to 3. As per the said reply, the accused party had moved an application to respondent No.6 which was marked to Assistant Inspector General of Police (Crime), Patiala, Zone Patiala, who conducted the inquiry. In the meantime, the viscera reports have been received, wherein the cause of death is declared as poisoning in both the viscera. However, during inquiry, the AIG (Crime) had found that deceased Rupinder Kaur was a patient of depression and previously her treatment was found to be taken from Pammi Singh, MBBS, MD Psychiatry, Dugri Road, Ludhiana. Later on, at the time of death, she was taking treatment from Dr. S. Charabhatry, Professor Department of Psychiatry and from the statement of the doctor, it was found that she being

a patient of depression became very suspected person and used to suspect on very minor things. On 18.08.2016 when deceased Rupinder Kaur had come back with her husband while taking medicine from PGIMER, Chandigarh, she desired to tie *Rakhi* to her brother Gurpreet Singh on the festival of *Raksha Bandhan* and tried to contact him, but the phone call could not be completed. Her husband Sukhbir Singh again made a call to the petitioner asking him to come to village Harbanspura on the occasion of *Raksha Bandhan*. On the next day, the petitioner had come to village Harbanspura and at that time, there was no dispute or suspect on Mandeep Kaur wife of Lakhbir Singh regarding illicit relations with Sukhbir Singh. As such, a wrong version was recorded in the FIR by the complainant. It was found that Rupinder Kaur herself consumed poisonous substance and forcibly gave the same to her son Manjovan Singh. Accordingly, in the investigation, it was found that the offence under Section 302 IPC was required to be deleted from the case and a cancellation report was prepared in the case by SHO Police Station Samrala on 19.09.2017.

On the basis of aforesaid reply, learned State counsel has argued that the application moved by the petitioner was inquired into by Ravinder Pal Singh Sandhu (PPS), Superintendent of Police (Investigation), Khanna, who in his report has suggested that the inquiry has already been conducted by Sushil Kumar (PPS), AIG (Crime), Patiala and as such, further investigation is not possible.

I have heard learned counsel for the parties.

So far as the judgments relied upon by learned counsel for the petitioner are concerned, there is no dispute with the law laid down by Hon'ble Supreme Court in those judgments. No doubt, a constitutional Court can order *de novo* investigation and fresh investigation by any investigating agency at any stage of the trial as the very object is to have a fair trial. But in the case in hand, record reveals that Rupinder Kaur (since deceased) was a patient of depression and was getting regular treatment from Dr. Pammi Singh, MBBS, MD Psychiatry, Dugri Road, Ludhiana and at the time, when she died, she was getting treatment from Dr. S. Charabaty, Professor, Department of Psychiatry and in this context, the police had conducted investigation thoroughly. The Assistant Inspector General of Police (Crime), Patiala has also investigated the matter and after a thorough investigation, has not found any involvement of the private respondents in the alleged crime. Accordingly, a cancellation report was submitted in the case.

Therefore, considering the fact that Rupinder Kaur (since deceased) was a psychiatric patient and the cancellation report was submitted by the police after a thorough investigation, the prayer of petitioner for fair investigation cannot be accepted as it is on the basis of investigation, police has prepared cancellation report in the case.

Accordingly, the present petition being devoid of any merit, is dismissed.

July 15, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No