

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

CRM-M No.33956 of 2017 (O&M)

Date of decision: 18.03.2019

Mukul Garg

....Petitioner

Versus

Central Bureau of Investigation and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate
with Mr. Pratham Sethi, Advocate
and Mr. Suvir Sidhu, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Manju Goyal, Advocate
for Mr. Sumeet Goel, Advocate
for the respondent – CBI.

Mr. S.P.S. Aulakh, Advocate
for respondent No.6.

Mr. Vikram Anand, Advocate
for respondent No.7.

Mr. Vikrant Sharma, Advocate
for respondent No.12.

ARVIND SINGH SANGWAN J.

Prayer in this petition is for issuance of directions to respondent No.1 to investigate or hold enquiry after registering an FIR against respondents No.4 to 11, on account of custodial death of one Ramandeep Kaur on 05.08.2017, who was the fiancée of the present petitioner, in Police Station Dugri, Ludhiana.

It is worth noticing that on 13.09.2017, while issuing

notice of motion to respondent No.3 alone, it was noticed that counsel for the petitioner has made a statement that he does not press the prayer for CBI probe in the case.

Brief facts of the case are that the petitioner is an accused in FIR No.109 dated 03.08.2017 registered under Sections 379, 420, 465, 467, 468, 471, 201,120-B of the Indian Penal Code (in short 'IPC') and 66 of the Information Technology Act at Police Station Dugri, Ludhiana. It is stated in the petition that the fiancée of the petitioner namely Ramandeep Kaur had died in police custody during the investigation of the aforesaid FIR No.109 dated 03.08.2017. It is also stated that the petitioner and deceased – Ramandeep Kaur were facing trial in the following cases:-

i) FIR No.149 Dated 02.04.2017 P.S. Chandigarh 39 u/s 420/467/468/471 IPC, 66 C, D & 72 I.T. Act against the petitioner and his fiancée Ramandeep Kaur since deceased wherein Challan has been filed.

ii) FIR No.151 Dated 02.04.2017 P.S. Chandigarh - 39 U/s 420/467/468/471 IPC & 66 C, D & 72 I.T. Act against petitioner and his fiancée Ramandeep Kaur since deceased wherein challan has been filed.

(iii) FIR No.152 Dated 02.04.2017 P.S. Chandigarh-39 U/s 420/467/468/471 IPC & 66 C, D & 72 I.T. Act against petitioner and his fiancée Ram andeep Kaur since deceased wherein challan has been filed.

(iv) FIR No.421 Dated 13.07.2013 P.S. Chandigarh-17 U/s 420/467/468/471 IPC & 66 C, D & 72 I.T. Act against petitioner and his fiancée Ramandeep Kaur since deceased where judgment of acquittal was passed.

(v) FIR No.332 Dated 15.10.2011 P.S. Chandigarh-39 U/s 420 against the petitioner wherein judgment of acquittal

has been passed.

(vi) FIR No.94 Dated 28.02.2013 P.S. Panchkula-5 U/s 420/467/468/471 IPC & 66 C, D & 72 I.T. Act against the petitioner wherein judgment of acquittal has been passed.

(vii) FIR No.391 Dated 28.12.2012 P.S. Andheri (Mumbai) Us 420/465/467/471 IPC against deceased Ramandeep Kaur wherein challan was filed.

Learned Senior counsel for the petitioner has submitted that the petitioner and deceased – Ramandeep Kaur were staying together for the last about 10 years and on 03.08.2017, the police officials, who were posted at Police Station Dugri, Ludhiana, entered the house of paternal uncle of the petitioner namely Rajinder Kumar and forcibly took the petitioner and Ramandeep Kaur at Police Station Dugri, Ludhiana. On the intervening night of 04/05.08.2017, both of them were given beatings and were tortured throughout the night and Ramandeep Kaur died while in police custody at Police Station Dugri, Ludhiana. The police instead of informing the petitioner or his relative made up a case that Ramandeep Kaur has committed suicide in the Police Station whereas she had died due to excessive torture at the hands of the police officials of Police Station Dugri, Ludhiana. It is further stated that without informing the petitioner, the deceased was taken to Bagga Nursing Home, Phase-1, Urban, Estate Dugri, in the middle of the night for treatment of the injuries and after her death, in order to hide the matter and cover up the entire episode, the police got the MLR of the deceased conducted from Civil Hospital, Ludhiana on 05.08.2017 and she was cremated on the same day, forcibly without even awaiting the arrival of her parents/relatives.

Learned Senior counsel for the petitioner has further submitted that as per the post-mortem report of deceased – Ramandeep Kaur, the following injuries on the wrist were found:-

- 1. Two hesitation cuts Approx. x 2 Inch on right wrist voar aspect.*
- 2. Incised wound one in No.1 cm x 0.25 cm skin deep on left wrist volar side.*

It is further submitted that the nature of injuries itself depict that she was hanged up with her hands tight with a rope and was tortured and because of the excessive torture beatings, she died and the police has build up a story of suicide in the bathroom. It is also submitted that when the petitioner was produced before the Magistrate on 05.08.2017, an application for remand was moved and in that application though it is stated that the petitioner was arrested on 05.08.2017, however, nothing was stated about the deceased – Ramandeep Kaur, which itself show the conduct of the police. Later on, a representation dated 08.08.2017 by uncle of the petitioner namely Rajinder Kumar and even, thereafter, various e-mails and representations were given to the higher authorities by Rajinder Kumar, Richa Garg (sister of the deceased) but no action was taken and accordingly, it is prayed in this petition that the investigation be handed over to the Central Bureau of Investigation.

Learned Senior counsel for the petitioner has relied upon the special report submitted before the Magistrate dated 13.08.2017 by Rajesh Kumar, Inspector, Cyber Cell, Ludhiana to submit that it is stated in the report that on 04.08.2017, the petitioner and Ramandeep Kaur were interrogated in FIR No.109 dated 03.08.2017 registered

under Sections 379, 420, 120-B IPC under Sh. Kuldeep Sharma, ADCP, Industrial Security and Smt. Rupinder Kaur Bhatti, ADCP Headquarter, Ludhiana and accused were arrested on 05.08.2017 at 12:30 am, where Ramandeep Kaur committed suicide by hanging herself inside the bathroom. It is further argued that it is admitted in this report that at the time when the custodial interrogation of the deceased was done, 02 senior officers were present, however, the police has not enquired into their role and the police is under their influence.

Learned Senior counsel for the petitioner has further argued that in pursuance to the order passed by the Punjab Human Rights Commissions, an enquiry was marked before the Judicial Magistrate Ist Class, Ludhiana and as per the report dated 09.03.2018, submitted by the Judicial Magistrate Ist Class, Ludhiana, after conducting an enquiry the following observations are made:-

“Having recorded the statements of all concerned and perusing the circumstances as disclosed, undersigned is of the opinion that death of Ramandeep Kaur cannot be said to be nature in any manner. Though it is asserted by the police officers (in whose custody Ramandeep Kaur was kept) that she had committed suicide, however, the fact that the whole incident happened after she was interrogated late till midnight puts a huge doubt over her death. Proper investigation through an independent agency is necessary for adducing the truth behind the incident as it was disclosed to undersigned that investigation qua the whole incident is being done by the SHO P.S. Dugri, himself. The possibility of prejudice cannot be ruled out in these circumstances.

The report regarding death of Ramandeep Kaur, daughter of Sh. Inderjeet Singh, R/O H.No.594, Urban

Estate (Phase 1), Dugri, Ludhiana is, thus, submitted for kind perusal and necessary action.”

Learned Senior counsel for the petitioner has, thus, argued that in this report it is specifically recommended that a proper investigation through an independent agency is necessary to find out the truth behind the incident as the death of Ramandeep Kaur, was not natural and the investigation of the incident was done by the SHO, Police Station Dugri, Ludhiana, himself.

Counsel for the State has filed separate replies on behalf of Kuldeep Sharma, ADCP (Industry Security) Ludhiana and Rupinder Kaur Bhatti, the then ACP, Headquarter, Police Commissionerate Ludhiana, which are already on record. In the reply filed by Rupinder Kaur Bhatti, DSP, 3rd IRB, District Ludhiana, has denied her presence in the Police Station on the date of occurrence as stated in para 9 of the affidavit. Though, it was admitted that she along with her senior officer i.e. Kuldeep Sharma, ADCP (Industry Security) Ludhiana, visited the Police Station during the late evening where the SHO informed that there is sufficient evidence against both the accused i.e. the petitioner and the deceased – Ramandeep Kaur.

In another reply filed on behalf of the Central Bureau of Investigation, it is stated that CBI has limited man power and resources and is already over-burdened with the investigation of various cases.

Counsel for the State has submitted that an enquiry is already undertaken by the Punjab Human Rights Commission and therefore, there is no requirement of further investigation as the Judicial Magistrate Ist Class, Ludhiana has already submitted a report before the

Commission. However, no reply has been filed on behalf of respondents No.2 and 3 i.e. State of Punjab and the Commissioner of Police, Ludhiana.

Counsel for the State has further submitted that he has the instructions to say that the government is ready to constitute a Special Investigating Team, to conduct further investigation in the matter.

Needless to say that the petitioner has already withdrawn his prayer for the CBI probe in the case as stated in the order dated 13.09.2017. Therefore, considering the rival submissions made by learned counsel for the parties and after going through the record as well as the report of the Judicial Magistrate Ist Class, Ludhiana, **the Director General of Police, Punjab is directed to constitute a Special Investigating Team, to be headed by an Officer not below the Rank of Additional Director General of Police, Punjab and the other members of the team should not be below the Rank of Additional Deputy Commissioner of Police and Assistant Commissioner of Police i.e. Rank of respondents No.6 and 7, who will conduct an enquiry and submit the report within a period of 03 months from the date of receipt of certified copy of this order before the Illaqa Magistrate.**

Disposed of accordingly.

**(ARVIND SINGH SANGWAN)
JUDGE**

18.03.2019
yakub

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