

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

**CRM-M-35826-2015
Date of Decision 11.09.2019**

Kulwinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms.Arti, Advocate for the petitioner.
Mr.SPS Tinna, Addl. Advocate General, Punjab.
Mr.Rajat Dogra, Advocate for respondent No.5.

ANIL KSHETARPAL, J.

Present petition has been filed with a prayer to issue appropriate directions to respondent No.2 to arrest accused Nos. 5 and 6 and conduct fair investigation in FIR No.9 dated 22.02.2015 under Sections 302/34 IPC.

The aforesaid FIR was registered on the statement of Kulwinder Singh son of Nachattar Singh aged 29 years in the year 2015.

Pursuant to the notice issued, Special Investigating Team was constituted and two accused, who were named namely Kulwinder Singh and Paramjit Singh @ Pamma, were called for questioning.

On 31.05.2016, following order was passed by this Court:-

“Status report filed before the Court shows that Special Investigation Team was constituted. Two of the suspects, namely Kulwinder Singh and Paramjit Singh @ Pamma were called for questioning. The police decided to conduct lie detector test of said Kulwinder Singh and Paramjit Singh @ Pamma but the accused refused to undergo the said test as well as Narco Test. Therefore, the application was dismissed. It prima-facie shows that said two persons namely, Kulwinder

Singh and Paramjit Singh @ Pamma have something to hide from the police. However, surprisingly, the police did not take any further step in the matter. It shows that the SIT is carrying on investigation in a casual manner and not serious in investigating the matter.

Let the Senior Superintendent of Police, Patiala, namely, Harwinder Singh who is heading the SIT is directed to appear in person before this Court to explain as to why he is conducting the investigation in such a casual manner. It is also made clear that if proper investigation is not done, this Court may recommend departmental action against all the members of the SIT.

Adjourned to 15.07.2016.”

It is not disputed that lie detector test and narco test of both the accused have been conducted. Thereafter on 15.07.2016, the Court was informed that investigation has been handed over to Mr. Harwinder Singh Virk, Superintendent of Police, who is carrying out the investigation in an earnest manner. Thereafter also the Court has been monitoring the investigation. On 18.07.2017, after hearing the learned counsel for the parties, following order was passed:-

“Status report by way of affidavit of Shri Harvinder Singh Virk, PPS, Superintendent of Police (Investigation), Patiala, on behalf of respondents No. 1 to 4, filed in Court today and the same is taken on record.

In the status report, it is stated that the Narco Analysis Test of Paramjit Singh alias Pamma (respondent no. 6) had been conducted on 06.03.2017 and certain recommendations have been made. However, the SIT is yet to act upon the said recommendations, despite lapse of four months. It is further stated that the Narco Analysis Test of Kulwinder Singh son of Roop Singh could not be conducted as he was suffering from medical problem. However, the learned State counsel, on

instructions from concerned official from respondent-department, states that Kulwinder Singh is otherwise not giving consent for Narco Analysis Test on the ground that he is suffering from liver problem. The perusal of previous report and conduct shows that initially the police proposed to cancel the case by stating that it is a suicide case. However, the post mortem report shows that the death was due to strangulation, which was ante mortem in nature, pointing out towards homicidal death.

The perusal of previous orders shows that the police is acting in a casual manner and is not serious in going to the root of the matter. The learned State counsel has sought one month's time to conclude the investigation and take necessary action in the matter. Now, it is directed that the Senior Superintendent of Police, Patiala, shall himself supervise the investigation and shall be responsible to see that the proper investigation is conducted and concluded within one month. Let the status report be filed within one month. If the investigation is not concluded within given time, the Senior Superintendent of Police, Patiala, will file his personal affidavit, stating as to why the investigation is not concluded within the given time. In that case, this Court will consider transferring the investigation to some independent agency.

List on 21.08.2017.”

Thereafter, another Special Investigating Team was constituted to conclude further investigation. On 13.02.2019, after hearing the learned counsel for the parties, following order was passed:-

“In this matter a case of murder was registered on the discovery of dead body of Jaswinder Singh. The petition had been filed for directing better investigation.

When notice of motion was issued the first response of the State was that it was a case of suicide. It was pointed out that as per the post-mortem report his death was as a result of

ante-mortem strangulation. Interestingly, the State had given its response on 02.02.2016 on the basis of the report of SIT. Today 3 years later, I have been informed that the cancellation report has been filed. For 3 years this court has attempted to get to the bottom of this strange case where first the police is passing of a murder as a suicide and then is proceeding to cancel the FIR (as if no murder has taken place at all). Let the head of the first SIT i.e. Shri Jaskaran Singh Teja, SP City and the present incharge of the SIT Shri Manjeet Singh Brar, SP be present in person to explain this mystery to this Court.

Adjourned to 06.03.2019.

To be shown in urgent list.”

Pursuant to the direction issued, Shri Jaskaran Singh Teja, Superintendent of Police (City) and In charge of Special Investigating Team Shri Manjeet Singh were also heard.

Learned counsel for the State submits that even after three Special Investigating Teams having been constituted and enquired into the allegations, the police failed to identify and trace out the culprits. He further submits that untraced report has been filed in the court of competent jurisdiction on 04.01.2019.

Keeping in view the aforesaid facts, this Court is of the view that, it would be more appropriate for the petitioner to contest the untraced report which has been filed before the court of Judicial Magistrate.

With these observations, the present petition is disposed of.

11.09.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No