

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

CRM-M-5493-2013 (O&M)
Date of decision : 01.05.2019

Om Parkash

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. P.S. Sadiura, Advocate for the petitioner.

Mr. R.K. Makkad, DAG, Haryana.

ANIL KSHETARPAL, J. (ORAL)

Petitioner whose brother is alleged to have gone missing has prayed for re-investigation of FIR No.85 dated 31.01.2012 registered under Sections 365, 34 of the Indian Penal Code.

Entire case has been built on the fact that a dead body was recovered from a canal on 26.01.2012 and the petitioner alleges that the aforesaid dead body was of his brother. Status report by way of affidavit of Chander Pal, Deputy Superintendent of Police, Head Quarter, Bhiwani has been filed and in para Nos.3 and 4, the following assertions have been made:-

“3. That Annexure P-2, the news item and annexure P-3 and P-4, the photographs were submitted by the petitioner along with CRM No.13202 of 2015 for placing on records and the Hon'ble High Court was pleased to take the same on

records vide order dated 28.04.2015. It is submitted that ASI Satish Kumar No.518/BWN was deputed to PS Sadar Gohana on dated 03.12.2015 along with Rajender, brother of Deepak to identify the unknown dead body recovered in FIR No.24 dated 01.02.2012 u/s 302/201 IPC PS Sadar Gohana and mentioned in the annexures quoted above. However, the said dead body was not found matching with Deepak as the height of unidentified dead body was 5-7” feets and of about 38 years of aged whereas, Deepak's age was 30-32 years with height only 5.0” feets. Further, the cloths found on the dead body were also not found matching with that of Deepak.

4. That during the course of thorough investigation conducted at the Refinery situated at Panipat, road side hotels and from the drivers and conductors of the oil-tankers, canal beldars and the police station situated along side the canal and vide publicity was also been given by publishing and distributing pamphlets in this regard. The description of unidentified dead bodies recovered in various police stations during this period does not match with that of Deepak. The suspected persons namely Ramesh driver and Sanjay Conductor of the alleged oil tanker have been interrogated in depth and their call details were also obtained. The polygraph test of suspected accused Ramesh and Sanjay was got conducted at FSL, Madhuban and as per opinion of FSL, in case of Ramesh the test was truthful on almost all the issues while in report of Sanjay, meaningful polygrams could not be obtained and hence, no opinion was given by the FSL. However, despite sincere and in-depth investigation conducted by the police, neither Deepak was traced nor any clue or evidence whatsoever has been found so far regarding his abduction or murder, either by the above named suspected persons or by someone else.

However, investigation of the case is still on and efforts are being made to trace out the case.”

Even polygraph test has been conducted of the suspects but no incriminating evidence could be found. It has been noticed that body which was recovered has already been cremated and as per the police, the aforesaid body did not belong to the brother of the petitioner. A period of more than 7 years had elapsed. Petitioner apart from apprehension has failed to produce any concrete evidence or material which would help this Court to come to a conclusion that dead body belongs to the brother of the petitioner.

In view thereof, this Court is left with no choice but for to close this matter with liberty to the petitioner to resort to the remedy available under law.

Accordingly, the present petition is disposed of.

01.05.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No