

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

CWP No.9040 of 2017
Date of decision:-29.01.2019

Kavita and others

.....Petitioners

versus

State of Haryana and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. S.K. Tandon, Advocate for the petitioners.

Mr. Siddharth Sanwaria, DAG, Haryana.

TEJINDER SINGH DHINDSA, J.(ORAL)

The widow and mother respectively of Narinder Kumar (since deceased) have filed the instant writ petition seeking a mandamus for directing the respondents to investigate the matter of custodial death of Narinder Kumar. Further directions are sought to prosecute as also to take departmental action against the concerned police official as also to compensate the petitioners to the tune of rupees fifty lakhs.

Counsel for the petitioners has argued that Narinder Kumar was taken into custody pursuant to FIR No.87 dated 27.04.2016 having been registered at Police Station Parao, Ambala, under Section 21 of the NDPS Act and Section 28 of the Drugs and Cosmetics Act, 1940. He was produced in Court on 28.04.2016 and was given police remand for two days. Thereafter he was again produced on 30.04.2016 and sent to judicial custody for 14 days. It has been asserted in the writ petition that the present petitioners had met Narinder Kumar in the jail and who had disclosed about police torture having been meted out to him in the lock-up.

Thereafter Narinder Kumar is stated to have been referred to Civil Hospital, Ambala City on 04.05.2016 and he expired on 14.05.2016 in hospital.

It is vehemently argued that Narinder Kumar has died under suspicious circumstances. The police authorities have failed to protect the life and liberty of the under-trial namely Narinder Kumar. Counsel has placed reliance upon Section 55-A of the Code of Criminal Procedure which mandates that it shall be the duty of the person having the custody of an accused to take reasonable care of the health and safety of the accused. It is argued that there has been a willful non-compliance of the duty cast under Section 55-A Cr.P.C. Further urged that in the enquiry conducted by the Judicial Magistrate concerned into the cause of death of Narinder Kumar, Chanda Devi, mother and petitioner No.2 herein had got her statement recorded to the effect that when she had visited to hospital to meet Narinder Kumar on 04.05.2016, it had been disclosed to her that electric shocks had been administered to him in jail.

Learned State counsel to the contrary has referred to the written statement filed and placed on record as also the documents appended thereto to assert that there was no negligence on the part of the police authorities and it was a natural death.

Having heard counsel for the parties at length and having perused the pleadings on record, this Court is of the considered view that there is no merit in the instant appeal and the same deserves to be dismissed.

Placed on record at Annexure R-1 alongwith the written statement filed on behalf of the State is a copy of Register No.1 which

reflects the date of admission of Narinder Kumar in Central Jail, Ambala. The case details have also been mentioned i.e.FIR No.27 dated 27.04.2016 at Police Station Parao. The medical examination of Narinder Kumar at the time of entering in jail is recorded in the following terms:-

1. ***“Patient has been addicted drugs, tab Proxywon 40 tablets per day from the last 5 years as per history of patient.***
2. ***Patient is suffering from Seizure from last 4 years as per history of patient.***
3. ***Patient has history of trauma with broken central right incisor teeth (upper left centre).***
4. ***Patient has dental implant from past 4 years as per history of patient.”***

Pleadings on record further reveal that in pursuance to an application moved under Section 176 Cr.P.C. by the Superintendent, Central Jail, Ambala, for conducting an enquiry into the death of Narinder Kumar before the learned District and Sessions Judge, Ambala, an enquiry was conducted by the Enquiry Officer-cum-JMIC, Ambala, and the report thereof has been appended as Annexure R-5 alongwith the written statement. Undoubtedly, during the course of enquiry, Chanda Devi (petitioner No.2 herein) had stated that she had met her son (Narinder Kumar) on 04.05.2016 when he was admitted in Civil Hospital. At that point of time Narinder Kumar, had disclosed to her that electric shocks have been given to him in jail. The mother had in her statement got recorded that her son was a drug addict. That apart the statement of Chander Shekhar, brother-in-law of deceased Narinder Kumar, was also recorded and whereupon he had deposed that he does not suspect the police authorities and that Narinder Kumar had never disclosed to him as

regards any torture or abuse having been inflicted while he was confined in jail.

During the course of enquiry, the statement of IWS Dr. Hitarth, Medical Officer, Civil Hospital, Ambala City, was recorded and who had stated that as per FSL report, no poisoning by way of ethyl alcohol had been found. As per pathology report of the heart, Narinder Kumar was shown to be suffering from left ventricular hypertrophy.

As per postmortem report, the cause of death has been opined to be Cardio Pulmonary Arrest because of Hypertrophy, Chronic Disease. The findings of the Enquiry Officer-cum-JMIC Ambala were to be effect that it was a case of natural death.

This Court has also perused the postmortem report of Narinder Kumar. The allegations as regards electric shocks having been administered do not find any corroboration therefrom. Rather the postmortem report does not reflect any external injuries whatsoever.

In the considered view of this Court, the death of Narinder Kumar cannot be construed to be under suspicious circumstances. No case has been made out which would indicate negligence on the part of the police officials/jail authorities.

In view of the above, no interference in the matter is called for.

Writ petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

29.01.2019

shweta

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