

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGRH

Letters Patent Appeal No. 1117 of 2018 (O&M)

Date of Decision: 9th April, 2019

Palu Ram son of Gopi Ram

..Appellant

Versus

State of Haryana and others

..Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE.**

Present : Mr. VB Aggarwal, Advocate, for the appellant.

KRISHNA MURARI, CHIEF JUSTICE

This intra-court appeal under Clause X of the Letters Patent is directed against the judgment and order dated 19.04.2018 passed by the learned Single Judge dismissing the writ petition filed by the appellant.

2. The appellant-petitioner filed the writ petition seeking the following main relief:-

- ii) to issue a writ in the nature of mandamus directing the respondents to hold independent and fair investigation into the matter regarding the murder of Shri Mohinder Singh son of Shri Gopi Ram, resident of village Rajound, District Kaithal.

3. The appellant-petitioner lodged the First Information Report under Section 302 of the Indian Penal Code with respect of murder of his brother. Although it was stated in the FIR that his deceased brother was last seen in the tractor-trolley of Tek Ram but it was also stated that he does not doubt any person. The petition was filed on the allegation that the police is

not taking any interest in the investigation of the case and though period of almost 3½ years expired, the investigation is still pending. The appellant-petitioner also alleged that he made an application to the Superintendent of Police, District Kaithal dated 05.07.2010 wherein he named Tek Ram son of Parbhu, Daya son of Tek Ram, Ram Pal son of Tek Ram, Vijay son of Tek Ram and Kanwar Pal son of Pola etc. as the accused persons. He also filed a Civil Writ Petition No. 16985 of 2012 before this Court which was disposed of vide order dated 24.09.2013 directing the State Government to constitute a Special Investigation Team to investigate into the incident. It was left to the wisdom of the Director General of Police, Haryana, to take stock of the situation and appoint officers competent enough to take care of the situation. A COCP No. 3607 of 2014 was filed alleging non-compliance of the order dated 24.09.2013. However, the said Contempt Petition was disposed of as having rendered infructuous by the Court after being satisfied that the order has been complied with and Special Investigation Team has been constituted. Thereafter, the instant petition out of which this Letters Patent Appeal arises was filed on the allegations noted hereinabove.

4. A perusal of the order goes to show that the SIT so constituted even conducted polygraph tests on the persons named by the appellant-petitioner namely Ram Pal, Tek Ram and Vijay Kumar and report thereof was submitted to this Court along with an affidavit of the Deputy Superintendent of Police, Kaithal. On dis-satisfaction expressed by the appellant-petitioner, learned Single Judge of this Court vide order dated 25.04.2017 directed that fresh polygraph tests of the aforesaid three persons be conducted in the presence of the appellant-petitioner. During the pendency of the petition, an application was made by the appellant-petitioner

for transferring the investigation to the Central Bureau of Investigation. Learned Single Judge vide order dated 09.11.2017 required the learned State counsel to seek instructions as to whether the investigation can be transferred to the State Crime Branch. The report of the fresh polygraph test conducted in the presence of the appellant-petitioner was also brought on the record and no conclusive opinion could be found on the basis of the report.

5. It appears in the meantime the Special Investigation Team completed its investigation and submitted a report. In pursuance of the order passed by this Court, the State Crime Branch also investigated the matter and did not find the accused persons guilty of any offence. On the request of the appellant-petitioner, vide order dated 16.11.2017, learned Single Judge directed that the investigation reports submitted by the Special Investigation Team and the State Crime Branch be examined by the Inspector General, Karnal Range. The Inspector General, Karnal Range after looking into the reports submitted by the Special Investigation Team and the State Crime Branch filed an affidavit before this Court making the following averments:-

“That in compliance of this Hon’ble Court’s order a Special Investigation Team (SIT) was constituted headed by Sh. Ram Kumar, HPS, Deputy Superintendent of Police, AEC Kaithal with Inspector Mahabir Singh No.31/HPA, In-charge CIA-I Kaithal and Sub Inspector Ram Kumar No.501/A, Police Station Civil Lines, Kaithal by the deponent vide order No.14623/DDA-IGP dated 11.12.2017, to conduct investigation of case bearing FIR No.107 dated 23.07.2012 under Sections 302, 201 IPC Police Station Rajound, District Kaithal. 3. That the Special Investigation Team (SIT) joined Vikram son of Balbir Caste Jhiwar resident of Village Khurda and Mr. Palu Ram (petitioner) and thereafter investigated the case minutely while joining in investigation all concerned. 4. That the members of the Special Investigation Team (SIT) have

conducted further investigation of the case, but no incriminatory evidence came on the present file on the basis of which the suspects namely Sh. Tek Ram son of Sh. Parbhu, Sh. Daya, Sh. Ram Pal and Sh. Vijay S/o Tek Ram, Sh. Kanwar Pal S/o Sh. Pola etc. could be arrested and real accused could not be known. The untraced report prepared by Station House Officer Police Station Rajound, District Kaithal has filed before the Illaqa Magistrate which is fixed in the learned Court of Judicial Magistrate 1 st Class, Kaithal. However, it is further submitted that from the facts makes it clear that all sincere efforts were made to trace the accused by the three agencies i.e. District Police, Crime Branch Haryana and SIT constituted by the DGP Haryana as well as constituted by the deponent, but no cogent evidence about the accused, who had committed the murder of Mohinder Singh brother of the petitioner could be found. In these circumstances no useful purpose is going to be served by getting investigated this case from any other agency.”

6. Learned Single Judge after taking into account the entire facts and circumstances of the case as also the investigation report and the views expressed by the Inspector General of Police, Karnal and after examining the reports vide order impugned in this appeal, disposed of the writ petition with the observation that nothing more survives to be done in the matter.

7. Learned counsel for the petitioner-appellant submits that the investigation is not proper and hence the matter needs to be handed over for investigation to the Central Bureau of Investigation.

8. At the behest of the appellant-petitioner, twice polygraph tests were conducted on three persons on whom doubt was being expressed by the appellant-petitioner though they were not named in the FIR but nothing came out of it. At the behest of the appellant-petitioner the matter was

investigated firstly by the SIT and subsequently by the State Crime Branch and both of them reached at the conclusion that the persons being named by the appellant-petitioner are not the accused persons and the real accused could not be traced out. Neither the learned Single Judge found any flaw or defect in the investigation carried out by the SIT and the State Crime Branch nor during the course of arguments learned counsel for the appellant-petitioner has been able to point out anything except for saying that the investigation has not been proper. Admittedly, the incident is of June-2012 and since then almost 7 years have expired.

9. Considering the facts and circumstances in its entirety we do not see any ground to interfere in the matter or to transfer the investigation to the Central Bureau of Investigation.

The appeal accordingly fails and stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

9th April, 2019
ravinder

Whether speaking/non-speaking: Speaking ✓ yes.

Whether reportable : ✓ yes.