

\$~49

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 3040/2019 & CRL.M.A. 39140/2019**

AMAN KUMAR

..... Petitioner

Through: None.

versus

THE STATE (GOVT. OF NCT OF DELHI)
& ANR

..... Respondents

Through: Ms Nandita Rao, ASC (Crl.) for State
with SI Sunder Singh, PS Baba
Haridas Nagar.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

27.11.2019

1. None appears for the petitioner.
2. The petitioner has filed the present petition, *inter alia*, praying that directions be issued for reinvestigation in respect of FIR No. 0364/2018 under Section 302 of the IPC registered with PS Baba Haridas Nagar.
3. The said FIR was registered in relation to the unnatural death of the petitioner's wife. It is alleged that the petitioner had strangled his wife. According to the prosecution, the investigation established that an extra-judicial confession was made by the petitioner. He was also the last person who was seen with the deceased and there is material to establish that there was a quarrel between the two of them.
4. The petitioner, the deceased and with their nine-year-old daughter were residing with the parents of the petitioner.

5. The petitioner claims that his wife was being harassed by one Ali Khan. He had also stated that on 02.11.2018, the deceased had filed a complaint alleging that Ali Khan had raped her and was harassing her. The status report filed by the State indicates that the said complaint had not been investigated, since the same was unsigned and the petitioner and his wife had shifted from their residence.

6. The Investigating Officer (IO) states that he had telephonically contacted the petitioner's wife but she had declined to come to the police station. The IO had also stated that he had called the petitioner's wife on her mobile number but she stated that she did not want any action to be taken on the complaint. The status report also indicates that the IO asked her to give her statement in writing but she had stated that she will come later and give her statement. He has also stated that thereafter, efforts were made to contact the complainant (the petitioner's wife) but she had not picked up her phone.

7. In view of the above, the said complaint was not investigated any further.

8. Although the complaint is unsigned, however, the status report does indicate that the petitioner's wife had not disowned the said complaint. On the contrary, the status report indicates that she had stated that she did not want any action under '*her complaint*'

9. The petitioner suspects that Ali Khan has a hand in the demise of his wife.

10. It is stated that a chargesheet had already been filed against the petitioner and the trial has commenced.

11. According to the prosecution, there is sufficient evidence to convict

the petitioner for the offence of murdering his wife.

12. Clearly, the fact that the petitioner's wife died an unnatural death just three weeks after the aforementioned complaint had been filed (that is on 23.11.2018) does raises suspicion that would warrant investigation into the complaint dated 02.11.2018, as well as investigations to rule out the involvement of Ali Khan.

13. This Court is not inclined to direct reinvestigation in the aforementioned FIR insofar as the allegations against the petitioner are concerned. It is the prosecution's case that he had confessed about his crime to his mother and she is standing by her testimony to the aforesaid effect.

14. Nonetheless, this Court considers it apposite to direct that the complaint made by the deceased on 02.11.2018 be investigated and that the investigating agency shall also investigate the whereabouts of Ali Khan at the time of the incident and also confirm that he had no role to play in the untimely death of the petitioner's wife.

15. The petition is disposed of with the aforesaid directions. The pending application is also disposed of.

VIBHU BAKHRU, J

NOVEMBER 27, 2019
MK