IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.1920 of 2020
Date of Decision: 07.12.2021

Avtar Singh **.....Petitioner**

Vs

Union of India and others
.....Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Narender Pal Bharwaj, Advocate and
Ms. Kajal Saini, Advocate
for the petitioner.

Mr. Satya Pal Jain, Addl. Solicitor General of India with
Mr. Dheeraj Jain, Advocate
for respondent No.1/Union of India.

Ms. Shubra Singh, Advocate
for respondent No.1/CBI.

Mr. Ashish Yadav, Addl. A.G., Haryana.

(Proceedings through Hybrid mode)

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RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this writ petition under Articles 226 and 227 of the Constitution of India for issuance of an appropriate writ, order or direction in the nature of certiorari for quashing/setting aside letter dated 13.12.2017 issued by Ministry of Personnel, PG & Pensions, Govt. of India, whereby

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request made by the Government of Haryana for investigation of the case bearing FIR No.16 dated 08.02.2017 registered under Sections 279/304A IPC at Police Station Barara, District Ambala by Central Bureau of Investigation was rejected in view of guidelines laid down by the Hon'ble Supreme Court in case title '***State of West Bengal vs. Committee for Protection of Democratic Rights, 2010(3) SCC 571***.

Petitioner has also prayed for the issuance of an appropriate writ in the nature of mandamus for issuance of necessary directions to the Central Bureau of Investigation to investigate in the aforesaid case which was registered after four months and 20 days of the incident dated 18.09.2016 and to add offence under Section 302 IPC with further direction that the case be ordered to be investigated under the monitoring and supervision of the High Court.

[2]. Brief facts culminating in the aforesaid case are that petitioner is father of deceased Dr. Manpreet Singh, who was studying Post Graduation in 2nd year Forensic Medicine. Deceased Dr. Manpreet Singh was very ambitious doctor and was of charming personality. He was a Junior Resident Doctor at Ram Manohar Lohia Hospital (RML) during 2013-14 at the age of 24 years prior to joining the post graduation course in Mullana College. Petitioner/complainant has alleged that Dr.

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Manpreet Singh was in 2nd Year during 2016 and he was directed to take classes in subject of Forensic Medicine to the junior MBBS students. Dr. Lokesh Bansal and Dr. Vasundra Sangwan came into contact with him during this period. He was invited on a dinner on 17.09.2016 at midnight which was hosted by Dr. Kanika Kohli, Assistant Professor of Forensic Medicine to celebrate birthday of her husband at Red Huts Resotrs at 9.00 P.M., which is 12 KM away from the college campus. Dr. Manpreet Singh came back after celebration from the party at college campus at about 1.00 A.M., in the intervening night of 17/18th September 2016 in order to drop one female Dr. Vasundra, who was also present in the dinner party. On 18.09.2016, an information was received in the Police Station, Mullana from M.M. University that Dr. Manpreet Singh has died in an accident. Proceedings under Section 174 Cr.P.C. were conducted by ASI Raj Pal, Police Station, Mullana. Statement of petitioner was recorded, who stated that on 18.09.2016 Dr. Manpreet Singh was going towards Shahbad from M.M. University, Mullana via Dosadka Barara in his Fortuner Car at about 4.00 A.M. When he reached near Maharana Partap Chowk, Barara, his car accidentally hit with the Maharana Partap Chowk, Barara, where he received multiple head injuries. The passers-by brought him to M.M.U. Barara for treatment, where the doctor declared him dead.

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[3]. According to the petitioner/complainant the accident in question took place all of sudden because of uncontrolled driving of car by the deceased Dr. Manpreet Singh which ultimately hit the Chowk and nobody was at fault. Petitioner did not show any doubt about this incident and do not want any legal action against anyone. Proceedings under Section 174 Cr.P.C. were undertaken. Statement of the petitioner/ complainant was recorded besides statements of maternal uncle of the deceased namely Hardeep Singh and brother Hapreet Singh. Post mortem of Dr. Manpreet Singh was conducted in M.M.U. by Board of Doctors, wherein cause of death was found to be due to ante mortem head injury which was sufficient to cause death in ordinary course of nature and the injuries were ante mortem in nature and could be the result of accident.

[4]. Petitioner gave an application on 07.10.2016 for registration of FIR under Sections 279, 304-A, 304 Part-1, 34 IPC for taking appropriate action. On the basis of this complaint, FIR No.16 dated 08.02.2017 was registered under Sections 279, 304-A IPC at P.S. Barara, District Ambala and the same was investigated by the local police.

[5]. During investigation, the Fortuner Car was taken into police possession. Mechanical report of the vehicle was

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obtained. Examination of scene of crime was done by the Team. Incriminating materials were collected by the Police and the same were sent to the Forensic Laboratory, Madhuban. Besides this, Dr. Lokesh Bansal, Dr. Vansundra Sangwan, Dr. Amrinder Gill, Dr. Arvind Sharma and the eye/independent witnesses namely Kharak Singh, Ramandeep and Balwinder Kaur were also joined in the investigation. According to the investigation and statements of the witnesses, death of Dr. Manpreet Singh was found to be on account of injuries sustained by him in the accident. The local police ultimately prepared untraced report on 15.05.2018.

[6]. Petitioner was not satisfied with the investigation and at his instance the case was transferred to Crime Branch, Haryana and Special Investigation Team was constituted under the Chairmanship of Sh. Arun Kumar, IPS of Police, Crime II, Superintendent consisting of Sh. Rajneesh Kumar, Deputy Superintendent of Police, State Crime Branch, HQ, Panchkula, Inspector Sukhwinder Singh, Incharge, State Crime Branch, Unit Panchkula. During investigation of the case, complainant/petitioner, Dr. Vasundra Sangwan, Dr. Lokesh Bansal, Dr. Arvinder Sharma and eye/independent witnesses of the incident namely Kharak Shingh etc. were joined in the investigation.

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[7]. During investigation, it was found that on 18.09.2016, the police received an information that Dr. Manpreet Singh had died in a road accident. On which, ASI Rajpal reached M.M. University where the petitioner/complainant, maternal uncle Hardeep Singh and brother Harpreet Singh were found present. Statements of the petitioner, brother Harpreet Singh and maternal uncle Hardeep Singh were recorded. According to the statements, death of Dr. Manpreet Singh was found to be on account of accident. No doubt was expressed by the complainant-party against anyone. Proceedings under Section 174 Cr.P.C. were undertaken and post mortem was got conducted by Board of Doctors at M.M. University, wherein the cause of death was found to be due to ante mortem head injury which was sufficient to cause death in ordinary course of nature and the injuries were ante mortem in nature and could be the result of accident. During the aforesaid proceedings, the complainant and his other family members were present. None of them raised any suspicion.

[8]. According to version got recorded by eyewitness Kharak Singh, on 18.09.2016 at about 4.15 A.M., when he was having a walk, a Fortuner Car came from behind being driven at high speed and the car crossed him and straightway hit against the Maharana Pratap Chowk and overturned. He ran towards

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the car. At that time, his wife, son and other neigbourers came there and saw that body of the driver was lying between both the front and back seat of the car. They tried to get the driver out of the car, but could not succeed. Thereafter they straightened the car and took out the driver. Son of the eyewitness and other boys took him to M.M. University, Mullana in their car. According to them, the car driver was drunk and was not wearing seat belt. The car was smelling alcoholic. According to the eyewitness Dr. Manpreet Singh was driving the car and there was no one else present in the car.

[9]. Petitioner had suspicion regarding involvement of colleagues of the deceased on the basis of CCTV footages. With reference to the facts pleaded in the present writ petition, learned counsel for the petitioner submitted that Dr. Manpreet Singh was trapped by Dr. Lokesh Bansal on that day and in the CCTV footage, he was seen leaving college premises in the Fortuner Car of Dr. Manpreet Singh with two other companions at about 1.19 A.M. Dr. Manpreet Singh was brought at Khokha (small cigaratte shop) 4 KM away from the college campus where they introduced Dr. Amrinder Gill at 1.30 A.M., who had reached in his Tata Safari car as per pre-planned conspiracy. According to learned counsel, Dr. Manpreet Singh was in custody of these three accused, who have captured him in his

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Fortuner Car, where he was tortured, injected the medicine or drugged through alcohol before assault as per circumstantial evidence. He remained in the custody of the accused from 1.30 A.M., to 4.00 A.M. and the post mortem conducted by the Board of Doctors was a farce as the college authorities have tried to protect their students.

[10]. Learned counsel further made a hectic efforts to lay emphasis on different possibilities. Learned counsel submitted that the petitioner/complainant has also obtained a report from the AIIMS Delhi and the opinion given by the doctors is *prima facie* contrary to the post mortem conducted by the M.M. University, Mullana. He submitted that Doctors in M.M. University, Mullana did not preserve Viscera during post mortem and the deceased was shown empty stomach, whereas he had eaten his dinner.

[11]. Learned counsel also raised pointed finger towards the investigation conducted by the Police in not preserving the vital clues, including the vehicle which is still parked in the premises of Global Toyota, Ambala. It could be done only on account of order dated 29.12.2017 passed in CRM No.41638 of 2017 in CRM-M No.41790 of 2017. Learned counsel also laid emphasis upon numerous facts to allege that the Police has done tainted investigation.

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[12]. Per contra, learned counsel for the respondent(s) submitted that the petitioner earlier filed CRM-M No.41790 of 2017. In due course, the said petition came for hearing before the High Court on 21.11.2019 and following order was passed:

> *"Present petition has been filed under Section 482 Cr.P.C. for issuance of directions to respondent No.3/Central Bureau of Investigation to investigate in criminal case bearing FIR No.0016 dated 08.02.2017, under Sections 279 and 304-A of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Barara, District Ambala with the further prayer to add Section 302, IPC.*
>
> *After arguing for sometime, learned Counsel for the petitioner wishes to withdraw the present petition with liberty to file fresh one with better particulars.*
>
> *Dismissed as withdrawn with the liberty aforesaid.*
>
> ***November 21, 2019 (MAHABIR SINGH SINDHU)***
> *Gagan* ***JUDGE"***

[13]. Learned counsel for the respondent(s) further submitted that the local police including the Special Investigation Team has already conducted the lawful investigation and the death of Dr. Manpreet Singh was found to be on account of accident. Non-preservation of viscera was explained on the basis of correspondence made with M.M. University, Mullana where post mortem of the deceased was conducted. The Hospital has issued in writing that according to law in case of poisoning where cause of death is not clear,

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viscera is taken otherwise taking of viscera without any cause would come under the penal offence, therefore, viscera of Dr. Manpreet Singh was not taken. Petitioner/complainant at that time did not show any doubt and he remained associated throughout along with his son and maternal uncle of the deceased. The complaint was filed only on 07.10.2016 i.e. after 20 days of the occurrence and the FIR was lodged thereafter only on 18.02.2017 i.e. after more than four months of the death. The complainant rather stated before the Police that he did not want to take legal action against anyone.

[14]. Learned counsel further submitted that during course of investigation, the police has interrogated all the suspects and also recorded the statements of the eyewitness and other witnesses. It has been found that deceased Dr. Manpreet Singh, Dr. Vasundra and Dr. Lokesh Bansal had gone to Elante Mall, Chandigarh in the car of Dr. Manpreet Singh. On that day, there was birthday party of the husband of Dr. Kanika in Red Huts, Saha. Dr. Manpreet Singh, Dr. Vasundra, Dr. Lokesh Bansal reached Red Huts Restaurant, Saha, District Ambala at about 9.00 P.M., where Dr. Lokesh Bansal and Dr. Arvind went to M.M.U. Hostel because Dr. Kanika had not invited Dr. Lokesh to the party. Dr. Manpreet Singh and Dr. Kanika went to Red Huts, Saha to join the party where Dr. Manpreet Singh took drinks.

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After the party, Dr. Manpreet Singh had left Dr. Vasundra at M.M.U. Hostel at 1.26 O'Clock in the night. He gave a call to Dr. Lokesh Bansal and gave his car key to him because while returning from Chandigarh, he had left his car keys in his car. At that time Dr. Lokesh Bansal told Dr. Manpreet Singh that his car was parked in the market and he will park his car in the Hostel parking. Dr. Lokesh Bansal went outside with Dr. Manpreet Singh accordingly. Thereafter, Dr. Manpreet Singh met Dr. Arvinder Singh Gill in the parking, who had come from outside. They talked with each other and went towards Dosadka Chowk in their own cars to eat something. Before, Dosadka Chowk, Dr. Manpreet Singh had stopped his car at kiosk and brought a water bottle and some-cigarettes. They sat in the Dhaba behind the kiosk and brought half bottle of liquor which was already in the car of Manpreet Singh. They had some liquor there. At about 3.30 O'clock at night, Dr. Arvinder Singh Gill went to M.M.U. Hostel, Mullana in his car. Dr. Manpreet Singh went towards Dosadka in his car. Thereafter at about 4.00 A.M., the car of Dr. Manpreet Singh met with an accident and overturned.

[15]. I have considered the submissions made by learned counsel for the parties and have perused the material on record.

[16]. Evidently, the accident took place on 18.09.2016 i.e. more than five years ago. Viscera was not preserved. Cause of

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death as pointed out by the Board of Doctors was due to ante mortem head injury which was sufficient to cause death in ordinary course of nature and the injuries were ante mortem in nature and could be the result of accident. The incriminating material after five years of the occurrence cannot be said to be preserved for the purposes of any further investigation, particularly when the investigation has been conducted by the local police and also by the Special Investigation Team constituted for that purpose. The car is still lying parked in the premises of Global Toyota, Ambala without there being any control of the Police. In such scenario, it cannot be presumed that the accidental car is also preserved in the same condition as was there at the time of accident. The blood stains in the vehicle must have disintegrated and cannot be subjected to any scientific test at this stage.

[17]. Evidently, the earlier petition bearing CRM-M No.41790 of 2017 was got dismissed as withdrawn on 21.11.2019 with a liberty to file fresh petition with better particulars. Instead of filing, Criminal Misc. petition, the petitioner has ventured to file the present writ petition for the same relief. Similar prayer was sought and negated by the High Court in the aforesaid Criminal Misc. petition. The prayer of State of Haryana for investigation of the case by the Central Bureau of Investigation has been

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rejected by the Ministry of Personnel, PG & Pensions, Govt. of India, on the basis of guidelines framed by the Hon'ble Supreme Court in case title '***State of West Bengal vs. Committee for Protection of Democratic Rights, 2010(3) SCC 571***.

[18]. In ***All India Institute of Medical Sciences Employees Union vs. Union of India and others, 1997(4) R.C.R. (Criminal) 594***, the prayer for CBI investigation against the former Director of the All India Institute of Medical Sciences for the offence under Section 409 IPC was rejected by the Hon'ble Apex Court. It was held that when the information is laid with the Police, but no action in that behalf is taken, then the complainant is empowered under Section 190 read with Section 200 IPC to lay the complaint before the Magistrate having jurisdiction to take cognizance of the offence and the Magistrate is required to inquire into complaint as provided in Chapter XV of the Code of Criminal Procedure. Without resorting to the aforesaid course, the complainant cannot seek direction of the Court for investigation by the CBI.

[19]. In ***Ganghadhar Janardhan Mhatre vs. State of Maharashtra, 2004(4) R.C.R. (Criminal) 682***, the ratio of ***All India Institute of Medical Sciences Employees Union's case*** (supra) was reiterated and it was held that the writ petition was not the proper remedy without availing remedy under the Code

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of Criminal Procedure. Writ jurisdiction can only be involved when the complainant has no alternative remedy. In the present case, having availed remedy under Section 482 Cr.P.C. and failed therein, the petitioner has switched over to the remedy under writ jurisdiction which cannot be entertained in view of ratio of ***All India Institute of Medical Sciences Employees Union's case*** (supra) as well as the guidelines framed by the Hon'ble Apex Court in ***State of West Bengal vs. Committee for Protection of Democratic Rights, 2010(3) SCC 571***.

[20]. For the reasons recorded herein, I find no ground to interfere in this writ petition and the same is accordingly dismissed.

(RAJ MOHAN SINGH)
JUDGE

December 07, 2021
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No

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