

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

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CRM-M-35508-2020

Date of Decision : November 01, 2021

RAMESH KUMAR @ UGGARSAIN

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

AND

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CRM-M-30801-2020

ROHIT

.....Petitioner

VERSUS

STATE OF HARYANA AND ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ashwani Verma, Advocate
for the petitioner in CRM-M-35508-2020.

Mr. R.S. Mamli, Advocate
for the petitioner in CRM-M-30801-2020 and
for the complainant in CRM-M-35508-2020.

Mr. Naveen Singh Panwar, DAG, Haryana.

Through Video Conferencing

JASGURPREET SINGH PURI. J. (Oral)

Both these petitions are taken up together as vide order dated
02.09.2021, the CRM-M-30801 of 2020 was directed to be heard
alongwith CRM-M-35508 of 2020.

CRM-M-35508-2020:

The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No.338 dated 04.09.2020, under Section 306 IPC, registered at Police Station Sadar Fatehabad, District Fatehabad.

As per the FIR, which was lodged on the basis of statement of Rohit son of Ghanshyam that his father owned three plots and his mother also owned some land and his father had received an amount of Rs.1,00,000/- from the petitioner, namely, Ramesh Kumar @ Uggarsain son of Kashi Ram about 1½ year back as earnest money against selling of four and a half marla of plot and there was a condition that he could take back the plot by paying interest at the rate of 12% per annum and in this regard, about one year ago, his father had returned Rs.1,55,000/- in the presence of Ex-Sarpanch Ram Singh, but on repeated requests made by his father, the documents i.e. the Registry/Sale deed were not returned and the petitioner used to abuse him and demanded a sum of Rs.50,000/- more and due to this reason, his father remained disturbed and on 31.08.2020 his father went to the house of the petitioner for taking the documents and thereafter, his father brought petrol from a shop and set himself on fire by pouring petrol on himself before the main gate.

The learned counsel for the petitioner has submitted that in the present case, the petitioner was falsely implicated and even otherwise also it is a case where the ingredients of Sections 306 and 107 of IPC were not fulfilled and on the face of it, there was no allegation with

regard to the abetment of suicide. He submitted that even otherwise mere depression of the deceased due to some civil dispute, if any, would not make the petitioner criminally liable. He further submitted that in pursuance of the interim bail granted by this Court on 05.11.2020, the petitioner has joined the investigation and has fully cooperated in the investigation process and, therefore, he has prayed that the order dated 05.11.2020 be made absolute.

On the other hand, Mr. Panwar, learned D.A.G., Haryana has submitted that the reply has been filed by Superintendent of Police, Fatehabad in the present case and while referring to the reply, he has submitted that the petitioner has since handed over the original documents of the plot which were taken into police possession by way of seizure memo. He submitted that there was one CD, which was stated to be with the complainant Rohit, which was earlier not examined by the Investigating Officer but when the matter was brought to the notice of this Court, the said CD has now been examined by the police. On 04.11.2020, the CD was handed over to the earlier Investigating Officer, namely, ASI Satish Kumar which was taken into possession by the police by way of seizure memo, but he did not consider the CD while investigation and thereafter, now the Investigating Officer, namely, ASI Satish Kumar has been found prima facie negligent for not taking into consideration the alleged CD, which was a material document in the present case and departmental inquiry was recommended and ordered against him for negligence. He has submitted that thereafter the Investigating Officer has also been changed on 10.07.2021 and then

again on 23.09.2021. Learned Deputy Advocate General, Haryana has further submitted on instructions from SI Kuldeep Singh that in pursuance of the order passed by this Court on 05.11.2020, the petitioner has joined the investigation and has fully cooperated in the investigation process and is not required for custodial investigation.

Mr. R.S. Mamli, Advocate for the complainant has submitted that the custodial investigation of the petitioner is required because the petitioner had been influencing the police earlier.

I have heard the learned counsels for the parties.

Earlier the complainant had given the CD of the deceased to the police but as per the State, the then Investigating Officer did not consider that CD during investigation and thereafter, the Investigating Officer has been changed twice and departmental proceedings have been recommended against the earlier Investigating Officer. Be that as it may, at present it is the specific stand of the State that in pursuance of the order passed by this Court, the petitioner has already joined the investigation and has fully cooperated with the investigation process and is not required for custodial investigation.

Therefore, in view of the stand taken by the State, the present petition deserves to be allowed. Accordingly, the order dated 05.11.2020 is, hereby, made absolute.

CRM-M-30801-2020:

The present petition has been filed under Section 482 of the Code of Criminal Procedure for directing the police officials to hand over the investigation of the FIR No.338 dated 04.09.2020, under Section 306

IPC, registered at Police Station Sadar Fatehabad, District Fatehabad to some independent agency or to some higher police officials or to Crime Branch.

The learned counsel for the petitioner has submitted that in the present case, the Investigating Officer was not fairly investigating the case and there was a specific CD of the deceased, which has not been taken into consideration by the police while investigation of the case and had rather recommended the cancellation of the present FIR and, therefore, the investigation ought to be done by some independent agency or by some other higher police officials.

However, the stand taken by the State is that against the earlier Investigating Officer, namely, ASI Satish Kumar, who had committed negligence, departmental proceedings have already been initiated and he is no more the Investigating Officer in the present case and thereafter on 10.07.2021, a new Investigating Officer was appointed and then again on 23.09.2021 another Investigating Officer was appointed and, therefore, no cause of action survives with the petitioner to continue with the present petition. Learned State counsel further submitted that a fair and impartial investigation is being conducted in the present case and, therefore, there is no cause of action with the petitioner to maintain the present petition.

Mr. R.S. Mamli, learned counsel for the petitioner has submitted that the investigation of the case has not been completed for more than one year.

In view of the aforesaid factual position, no ground is available with the petitioner to seek a prayer for transfer of the investigation since the earlier Investigating Officer has already been changed and there is no ground to show that any biased or partial investigation is being conducted.

However, it will be desirable that the investigation be completed as expeditiously as possible.

In view of the above, the present petition is, hereby, dismissed.

November 01, 2021
ajay-1/rajender

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No