

Sr. No.104

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

CRM-M-3363-2022

Date of decision:08.02.2022

Ramphal

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. S.K. Verma, Advocate for the petitioner.

Mr. Parveen Bhadu, AAG, Haryana.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

This is a petition under Section 482 of Cr.P.C. for directing respondent No.1 to handover the investigation of the case FIR No.214 dated 15.09.2021 Police Station Garhi, District Jind to CBI or to some other independent agency.

Learned counsel for the petitioner has submitted that in the present case, FIR No.214 dated 15.09.2021 was registered on the statement of the present petitioner under Sections 279, 304-A IPC with respect to the death of one Anil. It is submitted that although, in the FIR it was mentioned that some unknown vehicle and some unknown person had caused accident of the said Anil, who was nephew of the present petitioner, yet subsequently on 22.09.2021, the complainant got recorded his supplementary statement to the effect that on 15.09.2021 he got the information that Anil had died on

account of an accident and on reaching the spot, it was found that the motor-cycle of Anil was lying in a damaged condition and the deceased was lying in the bushes down the road. Further, in the statement, it was recorded that now the petitioner had come to know that his nephew Anil had a love affair with Neelam daughter of Tarsem and on 14.09.2021, Anil had gone to meet Neelam at about 11.00 PM and when she came out of her house, her family members came to know about the same and kept searching for her and Sunil alias Kala, who is the cousin of Neelam, then started chasing the said Anil in his car and hit the motor-cycle of Anil, thus causing his death. It was further alleged that the aforesaid facts were rumoured in the entire village and the people, who came to their house to give condolences, had also mentioned about the said facts and it was, thus, prayed that a strong action be taken against Sunil alias Kala. It was also prayed that action also be taken against his companions. Reference has been made to the application dated 25.09.2021 (Annexure P-4) for granting six days' police remand of accused Sunil, Naresh and Krishan in the said regard. In the said application, further reference has also been made to the fact that the said Sunil even got his disclosure statement recorded. It is further submitted that on the basis of the same, the police deleted Sections 279 and 304-A IPC and added Sections 302 and 34 IPC and, subsequently, even added Section 120-B IPC. It is further submitted that, however, thereafter further investigation was carried out under the orders of DSP. Section 202 IPC was added in the case after deleting Section 120-B IPC. It is further submitted that the petitioner had given a representation dated 09.10.2021 (Annexure P-7) to the Home

Minister, Haryana, for conducting an impartial investigation in the case and in the said application, it was submitted that the petitioner had doubts that the police would exonerate accused Sunil in the investigation. On the basis of above disclosure statement, it is submitted that the matter deserves to be transferred to CBI or to some other independent agency.

On an advance notice, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of the respondents-State and has submitted that he is fully prepared to argue the matter and assist this Court. He has submitted that in the present case, the investigation is over and the challan has been filed under Section 302 IPC against Sunil and under Section 202 IPC against the other accused. It is further submitted that since the challan has already been presented and investigation is complete, thus, the present petition deserves to be dismissed on the said ground alone. It is further submitted that as per the version given by the petitioner in the FIR, he had stated that the present case is a case of an accident, and that it was only on account of further investigation carried out by the police, that the offence under Section 302 IPC was added and that the challan was presented under Section 302 IPC against Sunil and under Section 202 IPC against the other accused. It is further submitted that in the present case, neither there is any eye witness nor any evidence has been shown to prove that the other accused/respondents No.6 to 9 have committed the murder of Anil. It is further submitted that even as per the disclosure statement of Sunil, he was driving his car alone and had hit the motor-cycle which Anil was driving. It is further submitted that even in the representation dated 09.10.2021, vague

allegations have been made and no relevant piece of evidence has been mentioned so as to make out a case under Section 120-B IPC against respondents No.6 to 9. It is further submitted that no allegation to the effect of any accused or any particular police officer/official having a malafide motive, has been raised.

This Court has heard the learned counsel for the parties and has perused the file.

It is not in dispute that the challan has already been presented and investigation is complete in the present case. The challan has been presented under Section 302 IPC against Sunil and even the other accused have been implicated under Section 202 IPC. The vague apprehension of the petitioner in the representation dated 09.10.2021 to the effect that the petitioner has doubts that the Jind police would exonerate the accused Sunil, does not stand substantiated. Since the investigation is complete and the challan has already been presented, the present petition for transfer of investigation deserves to be dismissed on the said ground alone.

However, this Court has also considered the merits of the case as to whether it is a case fit to be transferred for investigation to CBI or any independent agency and has found the answer in negative. FIR No.214 dated 15.09.2021 was registered on the statement of petitioner, who stated that his nephew Anil had gone to Narwana on the motor-cycle at night, on 14.09.2021 and the petitioner had come to know in the morning that he had met with an accident and on reaching the spot, he saw the motor-cycle of his nephew lying on the road and his nephew lying in the bushes on the kuccha

side of the road. It was alleged in the FIR that some unknown vehicle and some unknown person had caused the accident of Anil. Even in the representation dated 09.10.2021, no material has been mentioned to even remotely show that respondents No.6 to 9 deserve to be implicated under Section 120-B IPC in the present case. It was only stated in the application that the petitioner had doubts that Jind police would exonerate accused Sunil in the investigation, which has not been done.

Still further, the allegation in the said representation dated 09.10.2021 to the effect that the narration of the alleged occurrence by the petitioner was taken under pressure at the time of registration of the FIR, is contrary to the supplementary statement of the complainant (page 32 of the paper book) in which it had been stated by the complainant that initially he thought that the present case was the case of an accident and it is only subsequently that he came to know that it was Sunil who had committed the murder of Anil by chasing his motor-cycle with his car and hitting it. Thus, it is apparent that averments made in the supplementary statement, are contrary to the ones made in the representation.

Even with respect to the allegations against Sunil in the said supplementary statement, it has been stated that there was a rumour in the village and no concrete material has been stated, on the basis of which the petitioner could have possibly learnt about the factum of Sunil having committed the murder of Anil. With respect to the involvement of respondents No.6 to 9 and the prayer to implicate them under Section 120-B IPC, it is relevant to mention that in the present case there was no eye

witness. During the course of arguments, a specific query was put to learned counsel for the petitioner as to whether there was any tangible material to implicate the said persons under Section 120-B IPC or under Section 34 IPC. It was fairly stated by learned counsel for the petitioner that there was no such material. The disclosure statement of the said Sunil would also reveal that even as per the same, it was Sunil who was travelling alone in the Eco Sport Car and had hit the motor-cycle on which Anil was travelling. The police, after reinvestigation, did not find that respondents No.6 to 9 had either conspired with Sunil or had shared common intentions to kill Anil. There is no tangible material, even with the petitioner, to prove that the said conclusion of the police is illegal or against the law.

In fact, in the present case, it appears that it is the complainant who got the FIR registered under Sections 279 and 304-A IPC stating it to be a case of accident and it is on account of the efforts made by the police, that the application(s) for police remand/judicial remand of the accused persons were filed. The said applications have been annexed as Annexures P2 to P5. Annexure P-4 is the application with respect to seeking police remand of accused Krishan and Naresh, in addition to Sunil, whereas Annexure P-5 is the application seeking judicial remand of the said accused. Once the police authorities have themselves proceeded against accused Krishan and Naresh, who are respondents No.8 and 9 and have sought their police remand, it clearly shows that every possible effort has been made by the police to investigate the matter properly. It was on the basis of further investigation that the challan under Section 302 IPC was presented against

Sunil and under Section 202 IPC against other accused. It is not the case of the petitioner that respondents No.6 to 9 have any influence over the police nor there is any allegation of malafide motive against any police official. Even the representation dated 09.10.2021 shows that the same is based on vague allegations without any concrete material to show that the investigation has not been done properly.

In view of the said facts and also in view of the fact that the investigation is complete and the challan has already been presented, the present petition for handing over the investigation to CBI or any other independent agency, is meritless and deserves to be dismissed.

Dismissed.

08.02.2022
ishwar

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- Yes

Whether reportable:-Yes