

In the High Court of Punjab and Haryana at Chandigarh

CRM-M No. 8644 of 2020 (O&M)
Date of Decision: 07.2.2022

Darshan Singh @ Sukhminder Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. S.S.Narula, Advocate
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

(Through video conferencing)

CRM-43100-2021

1. The present application has been filed for preponing the date of hearing of main case.
2. For the reasons recorded in the application, the application is allowed. The main case is preponed, and, is taken up on board for hearing today.

CRM-M-8644-2020

1. In FIR bearing No. 0053 of 20.6.2018, is registered at Police Station Mallanwala, Ferozepur, offence under Section 306 IPC, is alleged to be committed by the accused concerned. The petitioner alleges in the petition that the investigations, underway in the FIR (supra), are proceeding at a tardy pace, and, that also the investigations concerned, are being conducted in a slanted and biased manner. Therefore, a mandamus is asked

respondent No. 4 to some other independent agency. The entire thrust of the prosecution case appears to be rested upon a scribed suicide note of deceased Gurjant Singh. If so, the authorship of the afore scribed suicide note, made by deceased Gurjant Singh, is to be determined, and, for determining the authorship of the above scribed suicide note of deceased Gurjant Singh, the opinion of the hand writing expert concerned, is to be elicited. Consequently, if the opinion of the hand writing expert, is not yet elicited by the investigating officer concerned, he is directed to ensure his eliciting the opinion of the hand writing expert, qua the authorship of the suicide note, as made by deceased Gurjant Singh. Also there may be other surrounding, other than the afore, hence incriminatory evidence against the accused concerned, obviously they also required to be fairly and unbiasedly investigated, by the investigating officer concerned.

2. The prayer made for speeding the pace of the investigations, into the offence (supra), carried in FIR (supra), and, also for transfer of investigations, is amenable to be granted to the petitioner, only when the investigations are underway, and, not when the investigations have ended, and, hence terminated, through the filing of a report under Section 173 Cr.P.C., by the investigations officer concerned, before the learned Magistrate concerned, or, upon a closure report being preferred before the learned Magistrate concerned, and, it being accepted by the learned Magistrate concerned. The learned Judicial Magistrate Ist Class concerned, as apparent on a reading of Annexure P-14, appended with the application, has proceeded to, after rejecting the cancellation report, as became instituted before him, by the investigating officer concerned, rather order for further investigations, being carried by the investigating officer concerned. The

further investigations (supra) shall be made, if not already made, qua the above observations at Para-I.

3. The learned counsel for the petitioner argues, that the further investigations, as are ordered to be carried by an order, contained in Annexure P-14, be ordered by this Court, to be carried out by an investigating agency, other than one which would hereafter hold investigations, as the investigations, as would be carried out by co-respondent No. 3, rather would be tainted investigations, and, also would be both biased, and, unfair.

4. The learned counsel for the petitioner also argues, that since in view of the above directions, this Court is yet vested with jurisdiction, through a petition cast under Section 482 Cr.P.C., to order for *de novo* investigations, and, also for investigations, being carried out by an agency, other than the agency, which would hold further investigations into the offence (supra). However, the afore argument would become well rested only when the learned Judicial Magistrate concerned, has not entered upon judicial proceedings, as arose from the FIR (supra). However, since the learned Judicial Magistrate concerned, has opened judicial proceedings, in respect of the FIR (supra), thereupons, even when there is an order for further investigation, being made by the learned Magistrate concerned, and, also if the remedy available to the petitioner, to ask for further investigations, being carried out by an agency, other than the one which was earlier carrying them, rather was available imperatively prior to the making of an order, as carried in Annexure P-14.

5. Nonetheless, in the larger interest of justice, it is ordered that if the petitioner forthwith files an application for the afore purpose, before the

learned Magistrate concerned, thereupon, it is open to the latter to, in accordance with law, and, after hearing all concerned, order for further investigations, being conducted, by an agency, other than the one which was earlier carrying them, and, which now also is carrying them.

- 6. The petition is disposed of.
- 7. All the miscellaneous application(s), is/are, also disposed of.

(SURESHWAR THAKUR)
JUDGE

February 07, 2022
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : Yes