

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

244

CRM-M-2019-2018 (O&M)
Date of decision: 17.10.2022

KAPIL JAIN

....Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : None for the petitioner.

Ms. Aditi Girdhar, AAG Haryana.

Ms. Meghna Malika, Advocate for
Ms. Shubhra Singh, Advocate
for respondent No.6-CBI.

Ms. Shaveta Sanghi, Advocate
for respondent Nos.7 to 9.

AMAN CHAUDHARY. J. (ORAL)

The instant petition has been filed under Section 482 CrPC for issuance of directions to the official respondent Nos.1 to 5 to hand-over the investigation of the case FIR No.717 dated 22.07.2014 under Sections 302 IPC registered at Police Station City Sirsa, to respondent No.6.

Notice of motion in this case was issued on 19.01.2018, pursuant thereto reply dated 28.03.2018 by way of affidavit of Vijay Kumar, HPS, Deputy Superintendent of Police (HQ), reply dated 13.01.2019 by way of affidavit of Deputy Superintendent of Police, Sirsa and reply dated 10.12.2019 by way of affidavit of Deputy Superintendent of Police, Sirsa has been filed.

Learned State counsel makes a reference to the untraced report dated 22.07.2014 appended along with reply dated 10.12.2019, which was approved to be filed in the Court. She further refers to Para Nos.3, 5 and 8 of the said reply,

which read thus:-

“3. That besides above, names of three other persons namely (i) Pawan Kumar (ii) Satpal alias Pala and (iii) Dalip came to light as suspects for the murder of Kamal Jain, hence these all three persons RSA were called upon to join the investigation in this case. During investigation no information about murder of Kamal Jain were found from them. Hence an application for the polygraphic lie detecting test of all these three suspects was also moved before the learned Chief Judicial Magistrate, Sirsa and in lieu of the said application, all the three suspects namely Pawan Kumar (ii) Satpal alias Pala and (iii) Dalip were called for 9.7.2015 but they all made a statement in the Court that they do not want to undergo the lie detection test, so the application filed by the prosecution, was declined. On account of this polygraphic test upon the suspects Mahesh Kumar (now deceased) and Pawan Kumar (ii) Satpal alias Pala and (iii) Dalip could not be conducted.

4. xxxxx

5. That it is further submitted that during investigation, Crime Branch has also obtained the legal opinion from the Deputy District Attorney, Headquarter Crime, on 12.07.2017 who has opined that now there is no room to force the polygraph test. It is also submitted that crime Branch has also sought report regarding the character of suspect Pala Ram, Pawan and Deepa from the SHO, P.S City Sirsa but no case has been found against any of them. After the thorough investigation, Crime Branch has also approved the untraced report prepared on 22.12.2016.

6. xxxx

7. xxxx

8. That it is hereby submitted that after due approval of the Untraced report by the Higher Authorities, the same has been filed in Court of Shri Sachin Kumar Tyagi, JMIC, Sirsa on

03.01.2019. However it is submitted that as the private complaint titled as "Kapil versus Pawan etc" is pending in the Court of Smt. Navjeet Klair, JMIC Sirsa and was fixed on 25.01.2019, hence the Untraced report filed in the Court of Shri Sachin Kumar Tyagi, JMIC, Sirsa is transferred to the Court of Smt. Navjeet Klair, JMIC Sirsa for 25.1.2019 for disposal of the same. Now the said complaint is pending in the Court of Smt. Reetu, JMIC, Sirsa and is fixed for 08.01.2020.

It is her submission that once a private complaint has already been filed before the Court and untraced report has also been submitted, the present petition has been rendered infructuous.

In view of the above submissions made by learned State counsel, no further order is required to be passed in this case.

The present petition is disposed of as having been rendered infructuous.

However, liberty is granted to the petitioner to revive the present petition in case any cause of action still survives.

(AMAN CHAUDHARY)
JUDGE

October 17, 2022

S.Sharma(syr)

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>