

**201-3 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-23719-2016

Reserved on: 21.10.2022

Date of decision : 15.11.2022

Chandi Ram

.....Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Suneel Ranga, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

RAJESH BHARDWAJ, J.

Petitioner has approached this Court praying for transferring the investigation in case FIR No.44 dated 20.05.2016, under Sections 306, 34 of IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station Government Railway Police, Panipat, District Panipat to CBI or some independent agency.

Complainant is the author of FIR wherein he has submitted that his daughter was serving as a Teacher at Government Primary School, Kabri, Panipat. She was working there for the last about five years. He alleged that the members of the school staff namely, Mukesh, Dharambir, Tara Sir, Manju, Mam Suman, Mam Anju, Mam Simpall, mother of the student Rajinder used to harass his deceased daughter Manju Bala in connivance with each other. Regarding the harassment being caused, she told to her husband Harikishan who thereafter, also

complained to Dharambir Sir, Tara Sir and to Former Sarpanch of Kabri namely, Dhara Singh. Mam Simpall humiliated her by saying '*chamari*' before the school staff. He alleged that on account of the harassment and humiliation caused by the accused, his daughter committed suicide. His daughter jumped before the train along with her child, however, the child survived but his daughter Manju Bala succumbed to the injuries. He submits that he had handed over a suicide note of the deceased to the investigating agencies the very next day i.e. on 20.05.2020. He made a request to take legal action against the culprits. On the statement of the complainant, the FIR was lodged and investigation commenced.

Learned counsel for the petitioner submits that the petitioner before this Court is the author of the FIR whose daughter has lost her life due to high-handedness of the accused named in the FIR. He submits that the precious life has been lost whereas, the investigating agencies being hand in gloves with the accused have not investigated the allegations in the FIR in a free and fair manner and thus, have carried out the investigation to hush up the case and to shield the accused.

Learned counsel for the petitioner submits that surprisingly the police started investigating the case in a tainted manner and thus, filed the challan only against two of the accused namely, Simpall and Monika. However, thereafter they filed supplementary challan under Section 173(8) Cr.P.C. against the third accused namely, Anju. He submits that the investigating agencies did not collect the record pertaining to collection of money i.e. Rs.100/- per student. He submits that the money collected from the students was unauthorized and on raising the objection by the parents, the amount of Rs.70,000/- approximately, had to be

returned. He has submitted that the petitioner being a member of the Scheduled Caste Community was intentionally made a scapegoat by the accused which compelled her to commit suicide. He has submitted that there was a recording pertaining to conversation between the deceased and the accused, however, the investigating agencies did not investigate the same only in order to favour the accused. He has further submitted that the mother of one student namely Rajinder, used to harass the deceased Manju Bala, however, the investigating agencies did not investigate the case *qua* accused Monika. He further submits that the CD pertaining to the conversation has also been concealed by the investigating agencies from learned Court. He submits that the material witnesses namely, Kavita and Minakshi were also not joined as witnesses by the investigating agencies. He vehemently submits that the deceased had left suicide note wherein the complicity of all the accused has been mentioned however, despite that the investigating agencies by conducting a tainted investigation have challaned only two of the accused at initial stage and one Anju by filing supplementary challan and thus, illegally declared rest of the accused as innocent. He further submits that the investigating agencies have failed to comply with the statutory provisions of Section 7 of the Scheduled Castes and Scheduled Tribes Act (hereinafter referred to as 'Atrocities Act'). He has submitted that as per the statutory provisions of the Atrocities Act, the offence committed under the Atrocities Act shall be investigated by a police officer not below the rank of Deputy Superintendent of Police. However, the case has not been investigated by the DSP and thus, the investigation suffers from a serious illegality.

Learned counsel for the petitioner has relied upon the Hon'ble Supreme Court judgment titled as Ram Bihari Vs. State of Bihar and others, 1998(2) R.C.R. (Criminal) 403. Thus, he has submitted that the investigating agencies have failed to carry out their duty under the law and had conducted biased and partial investigation by concealing the material witnesses from the trial Court and thus, have exonerated some of the main accused. Hence, in the interest of justice, the investigation of the case be transferred to CBI or some independent agency.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner. He has drawn the attention of this Court to the reply filed on behalf of respondents No.1 to 6 by Ms. Shital Singh Dhariwal, HPS, Deputy Superintendent of Police (H), Headquarters, Ambala Cantt dated 23.07.2018 and affidavit of Mr. Dheeraj Kumar, HPS, Deputy Superintendent of Police, Head Quarter, GRP, Ambala Cantt dated 11.07.2022. He has submitted that the investigating agencies have left no stone unturned in investigating the case in hand thoroughly without any bias. He has submitted that all the allegations levelled by the complainant were duly investigated. Statements of the relevant persons were duly recorded and thus, after a thorough investigation, no cogent and incriminating material was found against rest of the persons named in FIR. He has submitted that on receiving the information regarding the death of deceased on 19.05.2016, SI Joginder Singh (respondent No.7) went to the spot along with the officials and found a dead body lying on the railway track. On identification of the same, proceedings under Section 174 Cr.P.C. were initiated and the postmortem of the body was got conducted from Civil

Hospital, Panipat on 20.05.2016. The Doctor opined the cause of death is shock and hemorrhage due to the injuries described therein which was anti-mortem in nature and sufficient to cause death in ordinary course of life. Possibility of railway accident could not be ruled out. He further submits that on 20.05.2016, the petitioner-complainant made a complaint and also handed over two pages suicide note of the deceased. In the complaint, he made allegations against various members of the school staff and the mother of the one student namely, Rajinder. He has submitted that the investigation *qua* the allegation pertaining to collection of Rs.100/- per student was enquired into, by joining the school staff and the members of Panchayat, Village Kabri. On inquiry conducted, it was found that the deceased was not humiliated by the school staff. Mr. Tekan Raj, HPS, DSP, GRP, Headquarters, Ambala Cantt, carried out the investigation *qua* Dharambir, Tara Chand, Mukesh and Suman and found them not to have been involved in the case. The accused Simpal and Monika were arrested on 27.05.2016 and accused Anju joined investigation on 06.09.2016. During the course of investigation, the complainant/petitioner produced the CD on 07.07.2016 containing telephonic conversation between deceased Manju Bala and Kavita. The CD was collected and deposited in the *Maalkhana*. The translated conversation was prepared by the Investigating Officer but from the transcription, no incriminating material found against the accused persons. He has further submitted that the contentions raised by counsel for the petitioner that there is a violation of Sections 7 and 14 of the Atrocities Act, are totally false and without any rhyme and reason. He has drawn the attention of this Court to the affidavit filed by Mr. Dheeraj

Kumar, HPS, DSP, Headquarter, GRP, Ambala Cantt. He submits that the allegations made in the FIR and so in the suicide note, were thoroughly investigated and hence, the case was registered under Sections 306/34 of IPC and Section 3 of SC/ST Act. He submits that the investigation was conducted by the then Mr. Jagdeep Singh, HPS, Deputy Superintendent of Police, Railway Headquarter, Haryana, Ambala Cantt. as is recorded in zimni report dated 20.05.2016. He further submits that finally, investigation was completed by Mr.Teken Raj, HPS, GRP, HQ, Ambala Cantt on transfer of Mr.Jagdeep Singh, DSP, GRP, HQ, Ambala Cantt. He has submitted that E/SI Joginder Singh had already completed the formalities under Section 174 Cr.P.C. and rest of the investigation was completed by the then DSP GRP, HQ, Ambala Cantt. He has further submitted that DSP Headquarter had recorded the statement of the witnesses in the present case and also recorded the statements of the respectable members of Gram Panchayat, school teachers and Head Master of the school. Resultantly, he has submitted his final investigation to SHO, GRP, Panipat for preparing challan under Section 173(8) Cr.P.C. He has submitted that on a thorough investigation, Dharambir, Mukesh, Suman and Tara were found innocent. Thereafter, the challan was filed against accused Simpall and Monika on 19.07.2016 and supplementary challan under Section 173(8) Cr.P.C. in respect of accused namely, Anju was prepared on 24.10.2016 and forwarded to the learned trial Court on 09.11.2016. He submits that the investigating agencies have committed no illegality in violating the statutory provisions of Sections 7 and 14 of the Atrocities Act. He further submits that challan in the case is already prepared and charges are also framed. He submits that this Court can

interfere in the investigation in case the Court finds the same to be arbitrary and not having been found conducted in an impartial manner. However, the investigating agencies have carried out the investigation without any bias. He further submits that the learned Court has already rejected the applications filed by the accused under Section 227 Cr.P.C. and have framed the charges and thus, at this stage, the present petition has rather become infructuous. He submits that the petition being devoid of any merits deserves to be dismissed.

I have heard counsel for the parties and perused the record.

Admittedly, the deceased belong to the Scheduled Castes. She committed suicide by jumping before the train. The matter was reported to the police and a thorough inquiry was conducted by carrying out the proceedings under Section 174 Cr.P.C. Thereafter, as submitted before this Court, the investigation was conducted by the officer of the rank of DSP as per mandate of Section 7 of the Atrocities Act. The allegations pertaining to the CD were also enquired into. The investigating agencies have also placed on record the transcription of the CD. On examination of the same, nothing incriminating was found out. The Investigating Officer also recorded the statements of the villagers and that of the school staff and thus, found the allegations substantiated against the accused Simpal and Monika and hence, filed the report under Section 173 Cr.P.C. Thereafter, report under Section 173(8) Cr.P.C. was filed against Anju.

On hearing counsel for the petitioner and perusing the record, it is found that except the allegations made, there is nothing to show that the investigation on the issues raised by the petitioner has not

been carried out in a free and fair manner. There is nothing on record to support the contentions raised by counsel for the petitioner. It is apposite to note that even if the challan is presented against three of the accused that does not take away the right of the complainant in availing his remedies under Section 319 Cr.P.C. in case he is able to convince the Court at an appropriate stage of the trial. In what manner the investigation is to be carried out, lies within the domain of the investigating agencies and the Court should not dictate terms to the investigating agencies, without there being a sufficient reason.

This Court is supported by the judgment of Hon'ble Supreme Court in *D.Venkatasubramaniam and others Vs. M.K. Mohan Krishnamachara and another, 2009(4) R.C.R. (Criminal)* wherein it has been held that the High Court cannot direct the police to investigate the case from a particular angle, arrest the accused and submit charge sheet. In view of the overall facts and circumstances of the case, this Court does not find any merit in the petition and hence, the same is dismissed. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

15.11.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No