

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M-45782-2021(O&M)

Reserved on: 28.04.2022

Pronounced on: 18.07.2022

Paramjit

...Petitioner(s)

Versus

State of Punjab & others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Vishal Munjal, Advocate
for the petitioners.

Mr. Harpreet S. Multani, AAG, Punjab.

ANOOP CHITKARA, J.

Aggrieved by the inaction of the police in tracing the assailant, who had hit the petitioner's husband (who was already suffering from renal cancer), with a brick, fracturing his leg which led to his hospitalization and consequently, death due to aforesaid injury, the petitioner has come up before this Court to register an FIR under Sections 323, 326, 304 IPC and also to take decision on her representation dated 13.9.2021 (Annexure P-7).

On 3.7.2021, Khem Raj, husband of the petitioner, informed the police that on 29.6.2021, when he was going to pray in the church of Khabra, he had urinary incontinence, which he could not stop, because he was suffering cancer in the urinary bladder. On this, he went to a vacant plot to urinate. In the meanwhile, one person came there and started abusing him with filthy language and asked him as to why he was urinating in front of his house and then, he picked up a half brick and threw the same at him, which caused multiple fractures. He had informed that the person who had thrown the brick at his leg, was a Sikh and was being called as Chandi Cement Wala. Based on this

information, the police registered a DDR under Section 323 IPC. Unfortunately, the victim Khem Raj died on 16.8.2021.

Feeling aggrieved by total inaction on the part of the police in nabbing the accused and even their failure to decide her representation dated 13.9.2021 (Annexure P-7), the petitioner has come up before this Court seeking justice.

State has filed reply by way of affidavit of Ravinder Singh, PPS, Assistant Commissioner of Police, Sub Div-V, Cantonment, Jalandhar, wherein it has been mentioned that in the inquiries, the investigator could not trace any person named Chandi Cement Wala and due to the said reason, none could be identified. Some statements of witnesses are also annexed with the reply. It would be relevant to refer to the joint statement (Annexure P-5/T) of the Sarpanch and Panches of the Panchayat of the said area. As per the said joint statement, Sarpanch and Panches have stated that the main road of their village was under construction and due to the ongoing sewerage work, there are many bricks and stones, which cause road accidents. They stated that they did not hear from anyone about anybody throwing brick on any person. Perusal of other statements shows that they are meaningless. Unfortunately, the only person who could have identified the assailant was Khem Raj, the victim himself, who has expired way back on 16.8.2021.

Thus, without identification, it might be very difficult to trace the Sikh gentleman, who was also known as Chandi Cement Wala, given the nature of statements recorded to the police. There is no reason to doubt the allegation of Khem Raj that one Sikh person had thrown a brick on him, because he was urinating in front of his house. It is also undisputed that due to hitting of such brick, the leg of Khem Raj was fractured and he was hospitalized. However, the incident had taken place on 29.6.2021 and the information was given to the police on 3.7.2021 whereas the victim Khem Raj died on 16.8.2021. Thus, there was ample time right from the beginning of July, 2021 to 16.8.2021 to identify the assailant. But whatever efforts were made, could not find the assailant, who had caused injury to the victim Khem Raj.

Thus, in the facts and circumstances of the case, the prayers of the petitioner cannot be allowed and as such, the petition is dismissed. However,

dismissal of this petition shall not come in the way of the petitioner, in case she prefers to seek damages from the State.

(ANOOP CHITKARA)
JUDGE

July 18, 2022
AK

Whether speaking/reasoned:	Yes
Whether reportable:	No.