

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

CRM-M-10367-2022

Date of Decision: 04.08.2023

Manoj Kumar

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. H.P.S. Ghuman, Advocate, for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

HARNARESH SINGH GILL, J.

The petitioner seeks handing over the investigation in FIR No.394 dated 30.09.2021 registered under Sections 201, 302 read with Section 34 IPC at Police Station Kanina, Tehsil Kanina, District Mahendergarh, to the Central Bureau of Investigation or any other independent agency, on the ground that the police of District Mahendergarh, has failed to conduct a fair investigation in the matter.

Learned counsel for the petitioner submits that the FIR in question had been registered with the allegations that Roshani @ Anita, sister of the petitioner was married to Ajit @ Joni, resident of Kotia, Tehsil Kanina, District Mahendergarh, about 7-8 years back; that she was harassed and beaten up by her husband and in-laws on the pretext of bringing less dowry; that every time, the petitioner tried to settled his sister, her husband and in-laws, used to feel sorry and not to repeat the said acts; that in June, 2021, when the mother of the petitioner

died and Roshani had come to see her mother, she refused to return back, but the petitioner wanted to settle his sister and therefore, he left her at her matrimonial home. It is further submitted that on 30.09.2021 at 7 a.m., the petitioner got information that his sister had been missing since 11 p.m.; that he along with his brother went to village Kotia, whereafter the police had found a dead body of Roshani lying in the pond; that the dead body was having injuries on the head, forehead, eyes and neck and it was blood stained. It is further submitted that as a matter of fact Roshni was killed by her husband and in-laws and then thrown in the pond.

It is further submitted that the FIR No.394 aforesaid was registered against the husband and in-laws of Roshani, but as one Tapender Singh, Sub Inspector, posted in Police Station Kania, was protecting the accused being their close relative, no arrest has been done by the police till date; that the petitioner and his brother had submitted number of representations to the Senior Police Authorities, but to no avail.

Learned counsel for the petitioner would submit that under these given circumstances it is apparent that the Police of Mahendergarh, is not interested in conducting a fair investigation in the matter. He, therefore, seeks indulgence of this Court to hand over the investigation in the matter to the Central Bureau of Investigation or any other independent agency.

In support of his arguments, learned counsel for the petitioner relies upon the judgments of the Hon'ble Supreme

Court in Narmada Bai Vs. State of Gujarat and others, (2011)5 SCC 79 and State of Punjab Vs. Central Bureau of Investigation and others, (2011)9 SCC 182 and the judgments of the Coordinate Benches in CRM-M-11415-2010 – Davinder Singh Vs. State of U.T., Chandigarh and others, decided on 22.09.2010 and CRM-M-912-2011 – Harjinder Singh Vs. The State of Punjab and others, decided on 15.10.2012.

Still further, learned counsel for the petitioner would submit that the version of the police is that Roshani had died due to drowning, but there were injuries on various parts of her body and this fact clearly indicates that she had been murdered by her husband and in-laws in connivance with each other. It is further submitted though the police claims to have investigated the matter fairly, but till date it could not be found out by the police as to why and under what circumstances, deceased-Roshani had died due to drowning. This conduct on the part of the police further establishes that she was first murdered by her husband and in-laws and then she was thrown in the village pond.

On the other hand, learned State counsel, would argue that the matter had been thoroughly investigated by the Police and the opinion of the Board of Doctors, who conducted the post mortem on the dead body of the deceased was sought. According to the said opinion, Roshani had died due to drowning.

It is further submitted that both the parties had been joined in the investigation and after a detailed investigation,

husband of deceased-Roshani and her in-laws were not found involved in the matter and accordingly, a cancellation report was prepared on 30.05.2022.

While referring to the reply filed by the State, it is submitted that under the orders dated 18.08.2022 passed by the Director General of Police, Haryana, Panchkula, the investigation in the FIR was transferred to the State Crime Branch, Gurugram on 26.08.2022; that Special Investigation Team led by Shri Yashwant Singh, HPS, was constituted and the matter was thoroughly investigated by the SIT. It is further submitted that the said SIT also came to the conclusion that Roshani had died due to drowning and her husband and in-laws had no role in the said occurrence.

I have heard the learned counsel for the parties.

The matter has been investigated twice, i.e. first by the Police of District Mahendergarh and second time by the State Crime Branch. On both occasions, the investigation reached the same conclusion. It may further be noticed that investigation is based on the oral (statements of the witnesses) and documentary evidence, including the Post Mortem and Viscera reports. On 24.02.2022, the Doctors after perusing the postmortem report; diatom test report and toxicological analysis report of the viscera of the deceased, gave an opinion that the cause of death was drowning. Though, the learned counsel for the petitioner has argued that there had been injuries on various parts of the body of the deceased, yet a perusal of the post

mortem report dated 30.09.2021 does not indicate any except frothy secretion oozing out of the cut section in the lungs.

In the present case, the second investigation was conducted by the SIT of the State Crime Branch. It, thus, appears that the first investigation report submitted by the Police of Police Station Kanina, District Mahendergarh, did not find favour with the Director General of the Police, who transferred the investigation to the State Crime Branch. It could not be shown that the matter has not been investigated in a fair manner by the State Crime Branch. The post mortem and FSL reports are the basis and part of both the investigations. Therefore, it cannot be said that the grievances raised by the petitioner and/or his brother in the representations was not addressed by the Police authorities.

The judgments relied upon by the learned counsel for the petitioners are on the peculiar facts of the said cases. The circumstances narrated therein, had necessitated for handing over the investigation to the Central Bureau of Investigation. However, in this case, there does not exist any such fact or circumstance, which may necessitate any indulgence from this Court.

No other point has been urged.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

04.08.2023
ds

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No