

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-34212-2015 (O&M)

Date of Decision: 14.09.2023

Mohinder Kaur and another

...Petitioners

Vs.

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Dinesh Nagar, Advocate, for the petitioner.

Mr. Mohinder Singh Joshi, Addl A.G. Punjab.

Mr. S.S.Sidhu, Advocate, for respondents No. 6 to 8.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioners have filled the present petition under Section 482 Cr.P.C. with a prayer to quash the impugned order dated 29.07.2015 (Annexure P-7) passed by the Court of Judicial Magistrate 1st Class, Bathinda, whereby, the protest petition filed by the petitioner against the cancellation report had been dismissed. A further prayer was made in the petition to hand over the investigation to C.B.I. or some other independent Investigating Agency as police of Police Station Sangat, Bathinda had not investigated the case fairly.

2. Learned counsel for the petitioner contends that Puran Singh elder son of the petitioner had left the home to attend his practical examination of 10+2 at about 11 a.m. on 01.04.2006 and did

not return home. Despite their best efforts Puran Singh could not be found and the local police was informed. Thereafter, the petitioners kept searching for their son but could not locate him. Ultimately, on 10.04.2006, the petitioner No. 2 came to know that an unidentified dead body was found near the railway line in the area of village Pathrala and his photographs and clothes are lying at Police Post Pathrala. Petitioner No. 2 immediately went there and identified the photographs and clothes and other articles as that of his son Puran Singh. In the meantime, on the basis of the statement made by Sukhdev Singh, a DDR No. 5 dated 02.04.2006 was also recorded in Police Post Pathrala and the proceedings under Section 174 Cr.P.C. were conducted by treating the dead body of Puran Singh, deceased, as an unknown person. After receipt of the dead body, the postmortem examination was conducted on 11.04.2006 and ultimately FIR No. 45 dated 11.04.2006 under Section 302 IPC Police Station Sangat was registered against unknown persons.

3. Learned counsel further contended that the dead body of Puran Singh was cremated by the police secretly without informing the general public, in a clandestine manner. Thereafter, several representations/applications were moved to the police and police was requested to take action against the real culprits. Ultimately, the police presented a cancellation report before the Court of Judicial Magistrate

1st Class Bathinda. The petitioners appeared before the Illaqa Magistrate and the case was sent for further investigation. Again the police filed an untrace report and the petitioner No. 2 filed a protest petition, challenging the untrace report prepared by the police. Learned counsel for the petitioners further contended that in the present case, the Judicial Magistrate 1st Class had wrongly dismissed the protest petition filed by the petitioner No. 2 as cause of death in the present case was declared by the doctor as "the cause of death in this case in his opinion was due to asphyxia, which is result of throttling of neck and was antemortem in nature, which was sufficient to cause death in ordinary course of nature." Thus, the petition filed by the petitioners was wrongly dismissed. He further contended that even the deceased was shown to have died under mysterious circumstances. He further contended that Puran Singh had gone to appear in an examination and was an intelligent student. Even there was nothing to suggest that Puran Singh (since deceased) was addicted to intoxicants and even from the glance of the photographs of the deceased, it can never be said that the deceased was under intoxication.

4. On the other hand, learned State counsel assisted by the learned counsel for the respondents opposed the prayer made by the learned counsel for the petitioners. Learned State counsel submits that the DDR No. 5 dated 02.04.2006 was registered in Police Post Sangat

on 02.04.2006 and after the recovery of the dead body, the post mortem report was received in the police station on 11.04.2006. Thereafter, the statement of Sukhdev Singh son of Ganda Singh was recorded under Section 161 Cr.PC. He further contended that in the present case, the investigation was conducted by several police officials and ultimately, SSP Bathinda directed the CIA Staff Bathinda to investigate the present case. Thereafter, the SSP Bathinda formed an "SIT" also, which was headed by the Superintendent of Police (Detective) Bathinda and senior officers were deputed to investigate the case. Later on, during investigation, it was also found that Puran Singh son of the petitioner had died due to bite of honey bees and the proceedings under Section 174 Cr.PC. were initiated in this regard. The petitioners had levelled allegations against respondents No. 6 to 8 in the present case for murdering their son Puran Singh, however, the said allegations were found to be false during the course of investigation. During investigation, it was found that deceased Puran Singh had taken some intoxicants and had died due to asphyxia, which was caused by drowning. He further contended that the PMR report was not prepared by the doctors carefully and taking advantage of wrong entries in the postmortem report, the petitioners were levelling false allegations against respondents No. 6 to 8. As per him, the police had found sufficient medical and forensic evidence, which clearly ruled out the involvement of the respondents No. 6 to 8 in the

present case. The learned State counsel further contended that in the present case, both the petitioners have already expired and the petition also stands abated due to said reason as well.

5. I have heard learned counsel for the parties and perused the record carefully with their able assistance.

6. In the present case, at the very outset, learned counsel for both the parties have submitted that both the petitioners have already expired. Thus, the petition stands abated only on this ground. Further, the occurrence in the present case had taken place on 01/02.04.2006 and most of the valuable evidence is lost due to passage of time of about 17 years and there is no justification of referring the matter to some other independent agency as it would not serve any purpose. Still further, it is also apparent from the impugned order passed by the Judicial Magistrate 1st Class Bathinda that apart from his self serving testimony, the petitioner No. 2 had led no evidence at all to prove the involvement of the respondents in the crimes. The Area Magistrate has correctly observed that no direct evidence was produced by the petitioner No. 2/complainant on the present file, from which, it could be inferred that the respondents had caused the death of Puran Singh, son of the complainant. Still further, in the present case, only the petitioner No. 2 claimed himself to be the sole witness and there was no other independent witness, which could prove the involvement of respondents No 6 to 8 in the present case.

7. Even, the case has already been investigated by different senior police officers and the impugned order is based on due appreciation of the evidence and the settled law.

8. Finding no merits in the present case, the petition is ordered to be dismissed.

14.09.2023
amit rana

(N.S.SHEKHAWAT)
JUDGE

Whether reasoned/speaking

:

Yes/No

Whether reportable

:

Yes/No