

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

251

CRM-M-35771-2018 (O&M)
Date of decision :21.07.2023

Rajesh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Naveen Kundu, Advocate and
Mr.Angad Chahal, Legal Aid Counsel for the petitioner

Mr.Dhruv Sihag, AAG, Haryana

AMAN CHAUDHARY, J.

1. The present petition under Section 482 of the Code of Criminal Procedure has been filed for issuance of direction to conduct investigation after registration of an FIR and also to protect the life and liberty of the petitioner.

2. Learned counsel contended that the petitioner had submitted a complaint, Annexure P-1 alleging commission of murder of his son by the private respondents, but no action was taken by the police at that time. However, later on, an FIR under Section 306 IPC was lodged instead for an offence under Section 302 IPC against the accused persons. Further that, the challan was presented only against accused Rahul and other accused have been discharged as the police is hand in gloves with the accused.

3. On the other hand, learned State counsel submits that a SIT headed by Deputy Superintendent of Police investigated the matter and no evidence having surfaced regarding commission of the offence of murder, rather it being a

case of suicide, one Rahul was found to have abetted it and accordingly challan was presented against him. The other co-accused were found to be innocent after conducting proper enquiry. He further submitted that the application filed under Section 319 Cr.P.C., by the petitioner also stands dismissed by the trial Court.

4. Heard.

5. The present petition was filed on 16.08.2018, in which notice of motion was issued on 16.09.2018. During the pendency of the present petition, FIR No.11 under Sections 306 and 34 IPC was registered on 19.01.2020 against Rahul, Parveen @ Sonu, Manmeshvari, Ramesh, Sombir and Mohit. As per the status report dated 06.12.2022, during investigation accused-Rahul was arrested on 01.08.2020.

6. The Superintendent of Police, Charkhi Dadri was directed to be present in Court on 10.01.2023 and after the arguments were addressed, he sought time to conduct a fresh enquiry in the matter and file a status report.

7. Pursuant to the aforesaid, the matter was enquired into and a status report by way of affidavit dated 24.02.2023 of Superintendent of Police, Charkhi Dadri was filed. Paras relevant of it read thus:

“16. That during investigation Bhagat son of Kalu Ram, Sher Singh son of Nihal Singh Caste Jat, Ram Phal Pahalwan Son of Maha Sukh Caste Jat, and Jai Bhagwan son of Kanhaiya Lal Caste Jat residents of village Makdani were joined investigation and their statements were recorded. These are eye witnesses who were playing cards in front of the house of Jai Bhagwan son of Kanhaya Lal on the date of incident and Sher Singh and Ram Bhagat have seen deceased Sonu going towards fields at about 3.30 PM, carrying a rope in his hand. Another witness Lachhu Ram son of Ram Karan Caste Jat, who was working in his field have also seen a boy going in the fields and upon asking he did not talk to him. Later on they all came to know about the incident of suicide committed by Sonu and have seen the body hanging from the tree (Janti). No other person was seen by anyone going towards the field where

deceased had committed suicide.

17. That the audio recording produced by the petitioner having conversation with one Rajli wife of Ram Mehar was also listened and examined. During investigation Rajli was joined investigation and her statement was recorded and specific questions relating to the incident were also asked in writing. This witness has stated that she had gone to Chuchukwas on the date of incident in order to attend a Rasm Pagri and was not present at her house (Duly corroborated by witnesses). She had heard about the incident later on after her arrival in the village. She had denied about having ever told petitioner Rajesh or anyone else that deceased Sonu was taken on a motorcycle by Rahul and Parveen and petitioner Rajesh is telling lie in this regard. This witness further stated that she had not seen anything about the incident and had merely replied the leading questions put forth by petitioner Rajesh, and that too on hearsay basis as stated to her by Kavita wife of Manoj. During investigation, statement of Kavita wife of Manoj were also recorded and she had stated that she is suffering from mental disorder since last 5/6 years and was in her field on the date of incident and had returned to the village at about 6.00/7.00 PM. She has having no knowledge about the incident not have told anything to anyone in this regard. Thus the version/allege evidence put forth by the petitioner has not been proved from any corner during the investigation.

18. That with regard to the averment made by the complainant/petitioner that his son namely Vinod was present at the spot and has seen the murder of his deceased son Sonu committed by the accused in the haveli. This averment has also been deeply interrogated during investigation and it has been found that the petitioner has never mentioned in this regard earlier and had only mentioned the same in his statement recorded on dated 10.02.2023. During investigation, it has been found that Vinod, son of the petitioner was a student of Government Industrial Training Institute, Rawaldhi district Charkhi Dadri from 09.02.2018 to 08.02.2019 and was present in his class on the date of incident i.e. 09.03.2018 from 09.00 To 05.00 PM. True copy of his admission and attendance record for the relevant time are attached herewith as Annexure R-1 (Colly). Further, no witness in the village has stated about the presence of Vinod in the village during incident. Hence, the averments made by the petitioner in this regard are concocted one and just afterthought, in order to substantiate his false accusations.

19. That during course of detailed investigation it has been found that the petitioner is of quarrelsome nature and common villagers are hesitating to come forward or state anything against the petitioner as the petitioner threatened to implicate any person, who oppose the version as put forth by the

petitioner. Despite that a lot of villagers were persuaded and joined in investigation and their statements were recorded namely Bablu @ Hari Kishan Son of Lilu Ram Resident of Chhillar, Monika daughter of Pram Chand Son of Sanehari Caste Brahman Resident of Makdani, Prem Chand Son of Snehi Caste Brahman resident of Makdani, Santosh wife of Dharmbir Caste Brahman resident of Makdani, Anita Wife of Ram Chander Son of Swaroop Chand Caste Jat resident of Makdani, Rajinder Son of Sada Ram resident of Makdani, Ram Dhan Son of Om Parkash resident of Makdani, Rajender Son of Om Parkash resident of Makdani, Vijay Kumar Son of Tuhi Ram resident of Makdani, Sonika daughter of Ravinder Caste Brahman resident of Makdani, Sunil Kumar Son of Ram Prasad Caste Jat resident of Makdani, Satyavan Son of Azad Singh resident of Makdani, Prem Kumar Son of Tuhi Ram resident of Makdani, Ramesh Kumar Son of Devi Ram Caste Brahman resident of Makdani, Ved Parkash Son of Manohar Lal resident of Makdani, Pawan Kumar Son of Dalu Ram Caste Brahman resident of Makdani, Jag Sher Son of Lekh Ram Caste Jat resident of Makdani, Mukesh Son of Suraj Bhan resident of Makdani, Krishan Kumar son of Kanshi Ram resident of Makdani, Raj Kumar Son of Matu Ram resident of Makdani, Manjeet Son of Sher Singh resident of Makdani, Mahavir Son of Chandgi Ram resident of Makdani, Suraj Bhan Son of Ram Chander resident of Makdani, Raj Kumar Son of Tuhi Ram Caste Brahman resident of Makdani, Hawa Singh Son of Amrit Caste Jat resident of Makdani, Satyavan Son of Devi Ram Caste Brahman resident of Makdani, Jagmesh Son of Chhotu Ram Caste Jat resident of Makdani, Dhan Raj Son of Kashi Ram resident of Makdani, Mohit Kumar Son of Ram Narayan resident of Makdani, Jai Narayan Son of Matu Ram resident of Makdani, Ram Bir Son of Ram Kishan Caste Jat resident of Makdani and Ved Parkash son of Matu Ram Caste Vaish resident of Makdani were recorded. All these witnesses have contended that the petitioner as well as suspect/accused belongs to the same family having no prior enmity. The son of the petitioner had committed suicide due to the guilt fearing that Rahul will inform about his indecent activities to his family thereby bringing bad name to the family. These witnesses have stated that son of the petitioner was not murdered and infact had committed suicide due to hanging.

20. That during the course of in-depth, detailed and scientific investigation carried out by the SIT, it has been found that deceased Sonu outraged the modesty of Sonika daughter of Ravinder while she went to a shop situated in the village and also used abusive language with her. Sonika told about this incident to his cousin Rahul son of Vijay. In the meantime deceased Sonu, who was following the girl, reached their house. When Rahul objected his behavior, an altercation took

place and Rahul slapped him. Thereafter, Sonu returned to his house and was seen going towards the forest (Village Bani) where later on he was found hanging on a tree. The evidence produced by the petitioner was also examined in detail but the same is found without merit. Further, the slight abrasions seen on the hand of the deceased in the photos of the deceased is probably a result of minor injuries suffered by the deceased while climbing the tree (Janti). Thus during investigation no evidence comes on file to indicate that the son of the petitioner was murdered. It has been found during investigation that due to the guilt that Rahul will inform about his indecent activity to his parent and also from some kind of pressure from Rahul, Sonu committed suicide by hanging himself. Hence, no evidence came on file to suggest that son of the petitioner was murdered whereas, medical opinion and statements of witnesses clearly establish that deceased committed suicide and accused Rahul is found responsible for abatement in suicide, who has already been arrested in the case. No other person/suspect is found involved in the crime, in any manner. Hence, no further action is required in the matter.”

8. Challan stands presented against accused Rahul, under Section 306 IPC on 20.08.2020, upon which charges were framed on 23.06.2021. Application filed under Section 319 Cr.P.C. also stands dismissed by the trial Court.

9. Pertinently, the State was directed by this Court vide order dated 27.02.2023 to obtain opinion from an expert specifically with regard to the marks on the neck of the deceased as per the PMR, being of strangulation or hanging. The reply by way of an affidavit dated 11.04.2023, of Nitika Gahlaut, IPS, Superintendent of Police, Charkhi Dadri was submitted, relevant para of which reads thus:

“3. That in compliance of the above mentioned order passed by this Hon'ble Court, Expert Opinion regarding cause of death of deceased Sonu son of Rajesh resident of village Makrani was obtained from the Medical Expert at PGIMS, Rohtak. After perusal of inquest papers in the case, postmortem report dated 10.03.2018 and subsequent opinions sought by the investigating officer of the case, Dr. Jitender Kumar Jakhar, Professor, Department of Forensic Medicine in his report dated 03.04.2023 has opined that 'the ligature was of hanging which was antimortem in nature.' True copy of the Expert Opinion

dated 03.04.2023 received from PGIMS, Rohtak is annexed herewith as Annexure R-1 for kind perusal of this Hon'ble Court.”

10. The opinion of the Dr. Jitender Kumar Jakhar, Professor, Deptt. of Forensic Medicine, Pt. B.D. Sharma, PGIMS, Rohtak, Annexure R-1, reads thus:

“Inference:
A reddish black parchment type smooth ligature mark seen around the neck of width 0.5 cm. Ligature mark not seen below left ear and over left mastoid. Drooling of saliva present from angle of mouth. On dissection of neck: muscle effused with blood, fracture of hyoid bone present. Profuse bleeding present, trachea crushed. Thyroid bone intact. Rest of the organs are pale and healthy.
As the ligature mark is deficient, reddish black parchment like, hyoid bone is fractured and thyroid intact which are the characteristic of ligature mark of hanging. Drooling of saliva present is also the surest sign of antemortem hanging.
Opinion:
After perusal of above said documents the undersigned is of opinion that the ligature mark was of hanging which was antemortem in nature.”

11. The present petition was filed in the year 2018 for registration of FIR and conducting the investigation in a matter, which has since been done twice over, as noticed above. Considering the afore-referred facts and the status reports, it is evident that the purpose of filing of the present petition stands achieved. As such, the present petition is disposed of, however, leaving the petitioner with liberty to avail of alternate remedy, if any, in accordance with law.

21.07.2023
gsv

(AMAN CHAUDHARY)
JUDGE

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