

CRM-M-20988-2023

2023:PHHC:092552

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

CRM-M-20988-2023

Date of Decision: 18.07.2023

Sandeep

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Neeraj Sheoran, Advocate,
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition is filed under Section 482 for Code of Criminal Procedure, for seeking constitution of Special Investigation Team (SIT) and the investigation be carried out by an officer not below the rank of Superintendent of Police in FIR No.0511/22, dated 14.10.2022, under Sections 302 & 34 of the IPC, registered at Police Station, City Bahadurgarh, District-Jhajjar, Haryana (Annexure P-1).

2. Learned counsel for the petitioner has submitted that the brother of the petitioner had gone with his friends and at night time, his brother had fallen from the roof and there is a suspicion that some foul play has been committed with his brother. He further submitted that the Police is not investigating the case properly and therefore, a direction be issued to the police to investigate the case properly and also to constitute a Special Investigation Team (SIT) in this regard and the investigation be carried out by the officer not below the rank of

Superintendent of Police. He also submitted that none of the accused persons have been arrested till date which shows that the investigation conducted by the Police till date is not proper and fair.

3. On the other hand, Ms. Harpreet Kaur, learned AAG, Haryana, submitted that a status report by way of an affidavit of DSP, Bahadurgarh, District Jhajjar has already been filed by the State and while referring to the same, she submitted that a bare perusal of the affidavit would show that the investigation has been properly conducted in a fair and proper manner and so far as the grievance of the petitioner that the accused has not been arrested in till date is concerned, the reason of the same has also been so stated in the affidavit and even otherwise also no prayer can be made seeking arrest of the accused persons. While referring to the affidavit, she submitted that during the course of the investigation on 15.10.2022, an inspection of the place was carried out minutely by the FSL team and the site plan of the occurrence was also prepared and thereafter, the statement of witnesses were recorded and the CCTV footages of the nearby cameras were checked. On 16.10.2022, the accused, namely, Deepak, Vinay and Uttam were joined the investigation in the present case and the matter was strictly enquired from them, but they were not arrested as no evidence regarding their indulgence came forward at that point of time. While further referring to the affidavit filed by the DSP, she submitted that further during the course of investigation, on 18.10.2022, the relevant CCTV footage from a liquor shop situated at MM town near PDM University, Bahadurgarh, from where, the accused had purchased liquor was taken into possession vide recovery memo and its relevant certificate under Section 65-B of the Indian Evidence Act was also obtained. Thereafter, statement under

Section 161 Cr.P.C. of one Rajesh, owner of Haryana Dhaba, Sector-9, Bahadurgarh from where the accused persons had packed food and the neighbour of the place of occurrence, namely, Jaidev Sharma were also recorded. She further submitted that during the course of the investigation, the relevant CCTV footage from Bhramshakti Hospital, Bahadurgarh, where the deceased Manish was initially got admitted by the accused was taken into possession vide recovery memo and its relevant certificate under Section 65-B of the Indian Evidence Act was also obtained. During the further investigation, on 07.11.2022, the statement of the Doctor of Bhramshakti Hospital, Bahadurgarh who attended the deceased-Manish in ICU was recorded and the treatment record pertaining to the deceased-Manish was also taken into possession. Thereafter, on 14.11.2022, the accused-Deepak was joined the investigation of this case and the clothes worn by him on the date of occurrence were taken into possession. Thereafter, again on 15.11.2022, the relevant CCTV footage from Artimis Hospital, Gurugram was taken into possession and its relevant certificate under Section 65-B of the Indian Evidence Act was also obtained and the concerned Doctor was also joined the investigation of this case. She further submitted that during the course of investigation, the matter was separately and strictly enquired from the accused persons because they were regularly changing their statements and on 01.12.2020 all of them were produced before the learned Area Magistrate, Bahadurgarh and permission was obtained for conducting their polygraph examination in order to obtain clarity in the present offence. Thereafter, during the course of investigation, polygraph examination was conducted of all the three accused persons at FSL, Rohini, New Delhi. However, a copy of the polygraph

examination report of all the accused persons is enclosed as Annexure R-1. She submitted that as per the polygraph examination report, re-examination of accused-Deepak and Vinay has been recommended because they have given inconclusive responses to the issues. She further referring to Para No.17 of the affidavit, submitted that the investigation in the present case is still pending and investigating agency has been properly, fairly and thoroughly conducting the investigation.

4. Learned State Counsel further also brought to the notice of this Court to Annexure P-2 and submitted that the petitioner has already filed an application before the learned Magistrate for directing the investigating agency to preserve and protect the CCTV footage of the hospital and other areas. She submitted that although she is not aware that as to whether the aforesaid application is pending or not but once the application under Section 156(3) of the Cr.P.C. was filed by making detailed prayer pertaining to the investigating process which has already been done by the police, the present petition would also be not maintainable seeking extra-ordinary remedy under Section 482 of the Code of Criminal Procedure.

5. I have heard the learned counsel for the parties.

6. At the outset, this Court has put a query to the learned counsel for the petitioner as to whether the application moved under Section 156(3) Code of Criminal Procedure vide Annexure P-2, is still pending or not, he submitted that the same is still pending.

7. After hearing the learned counsel for the parties and also perusing the affidavit which which been filed by the DSP in which details have given with regard to the investigation conducted by the police and also the fact that

investigation of the present case is still pending, this Court is of the view that there is no illegality or unfairness has been found at this stage.

8. In view of the aforesaid position and without commenting anything on the merits of the present case, this Court does not deem it fit and proper to invoke the extra-ordinary power under Section 482 of the Code of Criminal Procedure for constituting the Special Investigation Team (SIT) as prayed for by the petitioner.

9. Consequently, the present petition is hereby dismissed.

10. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

18.07.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

1. Whether speaking/reasoned	Yes/No
2. Whether reportable:	Yes/No