

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

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CRM-M-29451-2020

Date of decision: 18.01.2023

SHANKAR LAL**...Petitioner****VERSUS****STATE OF HARYANA AND OTHERS****...Respondents****CORAM : HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Talim Hussain, Advocate
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

Mr. M.D. Khan, Advocate
for respondents No.8, 9, 11 & 12.

DEEPAK MANCHANDA, J.(ORAL)

The present petition has been filed under Section 482 Cr.P.C. for directing the official respondents No. 2 and 3 to constitute an SIT of higher rank police officers to investigate the matter in FIR No. 0059 dated 27.02.2020 under Section 346 of IPC, registered at Police Station Nagina, District Nuh with the further prayer to transfer the investigation to CBI or to some other independent agency and with alternative prayers for issuance of directions to respondent No. 4 to investigate the matter fairly and expeditiously and to take action in accordance to law with the further prayer to decide the representations submitted by the petitioner in a time bound manner.

The facts emanating from the pleadings are that 02 FIR's were got registered i.e. FIR No. 59 dated 27.02.2020 under Section 346 of IPC, registered at Police Station Nagina, District Nuh and second FIR bearing No.0081 dated 27.02.2020 under Sections 279 and 304-A of IPC, registered at Police Station

City Palwal, District Palwal. The first FIR was got registered by the petitioner about his missing son and second FIR was registered by some other person on the basis of rash and negligent driving against some unknown person , where the body of the deceased-son of the petitioner was found. Thereafter, the petitioner moved several representations for impartial investigation and aggrieved by the inaction of the police authorities has filed the present petition with the prayer for transferring the matter for further investigation either by the CBI or by some independent agency.

Vide order dated 27.10.2020, this Court had directed the respondent-State to file status report. In compliance of the same, the respondent-State had filed the reply dated 29.12.2020 and thereafter, additional reply by way of affidavit dated 22.01.2021 and status report dated 14.01.2023, which are taken on record.

Learned counsel for the petitioner contends that that the matter be investigated by the independent agency or the same be transferred to CBI as impartial investigation has not been done by the State police, whereas first FIR No.0059 dated 27.02.2020 was registered on account of missing son of the petitioner and the second FIR No.0081 dated 27.02.2020 was registered by some unknown person under Sections 279 and 304-A of IPC which are related to each other and for fair investigation several representations were sent, wherein the petitioner alleged that his son was murdered by the private-respondents and specific allegations were made against respondent No. 8 who influenced the investigation as he was not happy with the marriage of the son of the petitioner, who was going to marry on 02.03.2020 and the *Lagan* of the deceased-son of the petitioner was fixed.

Learned counsel for the petitioner further contends that the higher officials are protecting the accused persons as the investigation in the present case

was conducted by the police officials in collusion with the respondents-accused. Therefore, no impartial investigation can be done and the respondent No. 8 who himself is serving as a constable in Haryana Police has influenced the investigation, under such circumstances the investigation be transferred to some other agency.

Mr. M.D. Khan, Advocate has put in appearance on behalf of respondent No.s No.8, 9, 11 & 12 and filed his *Vakalatnama*, the same is taken on record.

Learned State counsel while referring to the status reports/additional reply submitted that the detailed and thorough investigation was carried out where the brother of the deceased was also associated, the autopsy of the body was conducted, the statements of witnesses were recorded. Thereafter, the dead body of the deceased-son of petitioner was duly identified by brothers of the deceased, namely, Rajiv Kumar and Lokesh. Further, as per medical examination of the deceased conducted at Nalhar Medical College, Nuh, where board of doctors was constituted at the request of the concerned SSP, the re-autopsy of the body was also conducted, then samples were sent to FSL. Learned counsel submits that being not satisfied, the brother of the deceased namely Lokesh again moved an application on the basis of suspicion that his brother-Kanwar Sain (deceased) was murdered and he provided registration number of a car HR-29-AL-5455. Accordingly, CCTV footage was examined, where nothing as such was found against the private respondents as the deceased was already lying one side of the road and the said car did not hit him, further the persons who were named by the brother of the deceased were also not noticed causing any injury to the deceased. Learned State counsel further submits after thorough investigation, it was concluded that the dead body was neither hit by the car number mentioned by the brother of the deceased nor any person seen causing injury to him and allegations

levelled by the brother of the deceased namely Lokesh in his application were not found to be true. Learned State counsel also argues that later on the owners of the car were also got joined in the investigation and again submits that the present case is a case of hit and run by some unknown vehicle, where the deceased Kanwar Sain-son of the petitioner died in a roadside accident caused by an unknown vehicle and there is no evidence suggesting murder of Kanwar Sain and the detailed investigation was carried out. Learned State counsel argues that even the injuries sustained on the person of the deceased did not suggest any murder rather all the injuries mentioned in the postmortem reports were recent and almost of same duration. He also argues that during investigation the call details of all the suspicious numbers were obtained which are annexed with the reply as Annexures R-6 to R-11 and it was found that the location of the all those persons were not found at the alleged place and it is crystal clear that the deceased and the alleged persons were not at one place during the fateful night. Learned State counsel also submits later on the cancellation report was also prepared in FIR No. 59 dated 22.02.2020 under Section 346 of IPC which was submitted before the Illaqa Magistrate for acceptance.

I have heard learned counsel for the parties and after going through the material available on record as well as the status report/replies and submissions made by the respondent-State, this Court is not inclined to exercise its jurisdiction under section 482 of Cr.P.C. for issuance of directions for transferring the matter to independent agency.

Hence, the present petition is accordingly dismissed.

January 18, 2023

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(DEEPAK MANCHANDA)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No