

117

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

CRM-M-33492-2023

Date of Decision: 18.07.2023

Bhim Sain

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Lalit Sharma, Advocate for
Mr. Gursimran Singh Madaan, Advocate,
for the petitioner.

Mr. Sarabjit Singh Cheema, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a petition filed under Section 482 of the Code of Criminal Procedure for challenging the order dated 03.06.2023 (Annexure P-5) passed in General Diary No.24 dated 08.05.2023 under Section 174 Cr.P.C. Police Station Dhar Kalan District Pathankot (Annexure P-1) whereby application seeking re-conducting of post-mortem of the deceased son of the petitioner has been dismissed by the learned Court of CJM, Pathankot.

2. Learned counsel for the petitioner has submitted that unfortunately the son of the petitioner died due to drowning at Ranjit Sagar Dam on 07.05.2023. Thereafter, DDR was also registered pertaining to unnatural death and the son of the petitioner had gone alongwith his friends to the aforesaid dam. He further submitted that although the post-mortem was conducted upon the body of the son of the petitioner that he has serious doubts that there were some injuries on the body of his son and it was not a case of simple drowning

but it was case where death was caused due to some external injuries initially then the body was thrown. He also submitted that the petitioner has prayed for re-conducting the post-mortem of the body so that the external injuries can be seen.

3. Learned counsel for the petitioner has also stated specifically and categorically after seeking instructions from the petitioner that after the post-mortem of his son was conducted on 08.05.2023, he had buried the body of his son on 09.05.2023, according to the customs prevailing within the community to which the petitioner belongs.

4. On the other hand, Mr. Sarabjit Singh Cheema, learned DAG, Punjab, submitted on instructions from DSP Rajinder Manhas, who is present in the Court today that he has also taken specific instructions from the concerned SSP as well as the other police officer to state that after the death of the son of the petitioner which was a very unfortunate incident, a Board of Doctors of the Government Hospital was constituted to conduct the post-mortem and as per the post-mortem report, no injuries were found on the body of the son of the petitioner and thereafter, the petitioner had buried the body of his deceased son on 09.05.2023 according to his own custom. He further submitted that he has also sought instructions from the concerned SSP, who along with his team has also inquired from the village that there is a custom prevailing amongst the community to which they belong, whereby they bury the bodies and they do not burn the bodies. He also submitted that the order passed by the learned CJM, Pathankot, does not suffer from any infirmity whereby the application of the petitioner for seeking re-conducting the post-mortem of the deceased son of the petitioner has been declined particularly in

view of the fact that it is now almost 2½ months after the body was buried that there is no possibility of conducting the post-mortem afresh after exhuming the body from the soil after a period of 2½ months. He further submitted that it will also bring disrespect to the deceased person in case the aforesaid is done and medically and biologically it is not feasible to re-conduct the post-mortem of a buried body which was buried 2½ months ago. He also submitted that even otherwise also it not a case that the post-mortem was not conducted but it is a case where the post-mortem was conducted by a Board of Doctors and as such the present petition may be dismissed.

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

6. It is a very unfortunate case where the son of the petitioner had died due to drowning and thereafter, the post-mortem was conducted by the Board of Doctors. The petitioner, who is the father of the deceased, has raised suspicion that it was because of external injuries caused by some other persons that the son of the petitioner suffered injuries and thereafter, he was thrown in the dam. The prayer of the petitioner could have been considered at an appropriate stage. However, now as per the learned counsels for the parties, the body has already been buried 2½ months ago and submissions made by the learned State Counsel that even if it is now exhumed, it is medically and biologically not feasible to re-conduct the post-mortem of the body, seems to have some logic. The other submission made by the learned State Counsel that exhuming of the body will also bring disrespect to the deceased person, also seems to be logical. The post-mortem of the deceased was conducted after his death by Board of Doctors and as per the learned State counsel, no injury was found on the body of the deceased.

7. Therefore, after considering the submissions made by the learned counsel for the parties and after giving thoughtful consideration to the matter, this Court is of the view that now it is not an appropriate stage after a period of 2½ months of burial that the body be exhumed and again post-mortem is conducted.

8. Therefore, finding no merit in the present petition and the same is hereby dismissed.

9. 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 wherein prayer has been made for re-conducting of post-mortem.

18.07.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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