

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CM-7710-CWP-2023 in/and
CWP-4724-2018
Date of decision: 13.07.2023

SUKHWINDER KAURPetitioner

VERSUS

STATE OF PUNJAB AND OTHERSRespondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Chander Shekhar Sharma, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

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The present application has been filed under Order 9 Rule 9 read with Section 151 CPC for seeking restoration of the above mentioned case that had been dismissed for want of prosecution.

Notice of motion.

Ms. Lavanya Paul, DAG, Punjab appears and accept notice on behalf of respondent-State and has no objections if the application is allowed.

For the reasons stated in the application, the same is allowed.

The main case is restored to its original number and is taken up on board today itself.

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MAIN CASE

1. The present petition had been filed for seeking issuance of directions to the respondents to investigate the matter of custodial death of the son of the petitioner, who is alleged to have been died under suspicious circumstances. A further compensation of Rs. 20 lacs had been sought from the Jail authorities.

2. The petitioner, who is a widowed lady is seeking compensation on account of death of her son Bikramjot Singh who was allegedly taken in police custody on 06.08.2013 in relation to case bearing FIR No.144 dated 05.08.2013, registered under Section 21 of the NDPS Act, 1985 at Police Station Division No.1, Jalandhar. She has averred that she met her son Bikramjot Singh who informed that he was being tortured while in custody. Thereafter, she came to know that Bikramjot Singh was referred to Medical Officer, Central Jail, Jalandhar at Kapurthala for his treatment where he passed away. His post mortem was conducted at PGI, Chandigarh on 14.05.2016 & the report is attached as Annexure P-2. An allegation has been leveled that her son had died due to negligence and torture given to him during custody by the respondents.

3. Short reply by way of affidavit of Navneet Singh, PPS, Assistant Commissioner of Police, North Jalandhar had been filed on 02.12.2018. It was averred in the written statement that the said FIR had been registered against Bikramjot Singh after he was apprehended with 250 grams of intoxicant powder and attempting to throw the same. After his arrest on 05.08.2013, he was produced before the Judicial Magistrate, First

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Class, Jalandhar on 06.08.2013 and sent to the Judicial custody. Before being sent to the Judicial custody, he was medically examined. The bail of the deceased was also declined by the trial Court.

4. While in custody, the deceased Bikramjot Singh fell unwell on 23.04.2014 where he was referred to Civil Hospital, Kapurthala where from he was further referred to Guru Nanak Medical College, Amritsar and remained under treatment. On 19.05.2014, he was further referred to PGIMER, Chandigarh where he was admitted for treatment and he passed away on 24.05.2014. Statement of the petitioner was also recorded by the Investigating Agency on 27.05.2014 at Police Station, Kotwali, Kapurthala wherein she had specifically stated that her son had died due to ill health and that no one is responsible for his death. Hence, inquest proceedings initiated under Section 176 Cr. P.C. by Police Station Kotwali were determined. The present petition was filed in the year 2018 i.e. after period of nearly 04 years of the incident in question.

5. A further Status report dated 12.02.2020 was filed by way of affidavit of Jasbinder Singh (PPS) Assistant Commissioner of Police North Jalandhar in compliance of order dated 11.09.2019 to place on record the opinion of the doctors with respect to the cause of death of Bikramjot Singh. The said medical report was placed on record wherein the cause of death has been opined as under:

“After receiving the report from the chemical examiner no. 694 dated 09.03.2015 and the HPE report no. 821 Path 15 dated 13.08.2015 the board is of the opinion that no definite cause of death can be elicited in this case but the

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possibility of hepatic failure cannot be ruled out. Copy of medical opinion is attached here with as Annexure R-1.”

6. Even though, the above said responses had been filed way back in the year 2018-20, however, the petitioner opted not to file any replication/rejoinder controverting the said facts.

7. Learned counsel for the petitioner has argued that the death report prepared by the Medical Officer mentions that the deceased was given De-addiction treatment by detox No. 3411 from 28.03.2013 to 11.09.2013. It is suggested by the petitioner that as Bikramjot Singh was taken in custody on 05.08.2013, there was no occasion for giving of treatment for the period prior to his arrest in the said case. It is thus argued that the details furnished in the response are false and incorrect.

8. I have heard learned counsel appearing on behalf of the petitioner and fail to find myself in agreement with the petitioner.

9. Undisputedly, the case of the petitioner herself is that deceased Bikramjot Singh son of Surinder Singh had been taken in custody on 05.08.2013. The mere reference with respect to the de-addiction treatment by detox No. 3411 from 28.03.2013 to 11.09.2013 is not stated to have been administered at the time when the petitioner was in custody, rather, the same is more as a reference of the medical history of the deceased. Needless to mention that in the event of any ill health being reported, a medical history its duration/the past treatment or prescription would normally be mentioned, as may have been informed by the deceased himself. Reference of the said medical history cannot *ipso facto* lead to a presumption that the petitioner was in custody during the entire period from 18.03.2013 to 11.09.2013,

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contrary to her own pleading. The submission by the counsel for the petitioner is also contradicted from the averments contained in the petition itself as also in the representation attached by her as Annexure P-5. Further, the post mortem report and/or the other document available on record do not suggest that the deceased was meted out with any violence and/or custodial torture. There is nothing on record to suggest that Bikramjot died as a result of any excess and/or the negligence conducted by the respondent agencies while in custody.

10. It is reflected from the documents that the deceased was taken to Civil Hospital, Kapurthala on 23.04.2014 and was thereafter even got admitted to PGIMER, Chandigarh where he remain admitted from 19.05.2014 till 24.05.2014, when he passed away. There is nothing on record to suggest that there was negligence by the treating doctors and/or the agencies and instrumentalities of the State. There is no material available on the file of this Court on the basis whereof an adverse inference, as is being sought to be drawn can actually be supported.

11. The Doctors have opined that there was no unnatural cause of death and suspected it to be a case of Hepatic failure, considering his medical history.

12. Moreover, it has also come in the reply of the respondents that the statement of the petitioner had been recorded by the police wherein she had got recorded a statement to the effect that there was no foul play. No attempt was made by the petitioner to dispute the above said aspect at any point of time or to contend that the said statement was not recorded by her or was recorded under duress. Further, she did not approach any competent

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Court of jurisdiction at the first available opportunity. Rather, she opted to prefer the present petition only in the year 2018 i.e. after a period of more than 04 years of her son having passed away.

13. Under the given circumstances, I find that the submission advanced by the petitioner are conjectural and at best disputed questions of fact, that cannot be gone into or be determined by this Court at this stage.

14. The present petition is accordingly dismissed. The petitioner may, if so advised, take recourse to the alternative remedy as available to her in accordance with law.

(VINOD S. BHARDWAJ)
JUDGE

JULY 13, 2023

Vishal Sharma

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No