

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

237

CRM-M-52914-2021

Date of decision: 24.05.2023

Tony Kumar

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Surjit Singh Swaich, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

Mr. B.S. Jatana, Advocate
for respondents No.4 and 5.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking issuance of directions for a fair and impartial investigation into the death of his brother by some independent agency like Central Bureau of Investigation (CBI)/Special Investigation Team (SIT) of senior police officers from outside District Patiala.

2. Learned counsel for the petitioner *inter alia* contends that the police had failed to conduct a fair and impartial investigation into the death of his brother Vicky Kumar. He submits that the police had wrongly concluded that it was a case of accidental death whereas in fact the petitioner's brother had been murdered by the private respondents.

3. Learned counsel further submits that deceased Vicky Kumar had accompanied the private respondents on their motorcycles on the fateful day i.e. 02.03.2021, and thereafter he was informed by respondent No.4 that Vicky Kumar had died on account of the injuries

suffered in an accident. While drawing the attention of this Court to the post mortem report (Annexure P-2), it has been submitted that since the deceased had received injuries on his head, it was evidently a cold blooded murder. It has further been submitted that a representation had been given to Senior Superintendent of Police, Patiala on 28.05.2021 which in turn was marked to Deputy Superintendent of Police, Patran, however, vide inquiry report dated 30.07.2021, the police had yet again wrongly concluded that the brother of the petitioner had died in a motor vehicular accident. He submits that the possibility of his brother being murdered was discernible as respondent No.4 was a hard core criminal.

4. Per contra, learned State counsel while controverting the submissions made by the counsel opposite, has submitted that a thorough investigation was carried out in the case in hand. While placing reliance upon an affidavit dated 07.07.2022 filed by Gurdeep Singh, PPS, Deputy Superintendent of Police, Circle Patran, District Patiala on behalf of respondents No.1 to 3, which has been filed in the Court today and is taken on record subject to all just exceptions, learned State counsel has submitted that after the registration of the FIR on 03.03.2021, the police had carried out further investigation. The post mortem of deceased Vicky Kumar was conducted at Civil Hospital, Moonak, wherein the doctor categorically opined the cause of death to be a head injury, suffered in a road side accident. It has been still further submitted that after representation dated 28.05.2021 was moved by the petitioner, a further inquiry was carried out, wherein again it was concluded that it was a road side accident. Learned State counsel has submitted that after completion of investigation, the police had filed

challan under Sections 304-A, 279, 427 and 338 of the IPC on 14.06.2022. Thereafter, charges were framed and now the prosecution evidence was underway wherein 02 out of the 19 prosecution witnesses cited, had already been examined. It has also been submitted that in case the petitioner was aggrieved of the charges which were framed under Sections 304-A, 279, 427 and 338 of the IPC, he should have impugned them before the Revisional Court, however, it was a matter of record that the order framing the aforesaid charges had gone unchallenged.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. The challan in the instant case was presented in the Court, way back on 14.06.2022. Admittedly, no challenge was made by the complainant to the order vide which accused respondents were charged under Sections 304-A, 279, 427 and 338 of the IPC. Furthermore, as apprised by the learned State counsel, the prosecution evidence is now underway.

7. This Court, in the aforementioned facts and circumstances, does not find any merit in the instant petition moreso, when, before the challan was presented in the Court on 14.06.2022, the police had carried out further investigation on the representation given by the complainant on 28.05.2021 and on the basis of all material collected ruled out any foul play.

8. The instant petition stands dismissed accordingly.

24.05.2023

Vinay

(MANJARI NEHRU KAUL)

JUDGE

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