

CRM-M-57420-2018

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**(242) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M-57420-2018 (O &M)
Date of Decision: 21.02.2022**

Om Parkash

... Petitioner

Versus

State of Haryana and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Keshav Pratap Singh, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 Cr.P.C. is for the issuance of appropriate directions to the respondents for taking action pursuant to the registration of the FIR No. 590 dated 18.11.2018 under Sections 302, 34 IPC registered at Police Station Hodal, District Palwal, with a further prayer that a Special Investigation Team (SIT) be constituted and investigation be transferred to some other district.

2. The brief facts as emanating from the pleadings of the case are that an FIR No. 590 dated 18.11.2018 under Sections 302, 34 IPC at Police Station Hodal, District Palwal, came to be registered at the instance of the petitioner-Om Parkash who stated that Deepak son of Jagvir, Parvinder son of Satvir and Yogesh son of Sethi had come to his (complainant's) house asking for cultivating their land by a rotavator. He (complainant) had sent his

brother-Sonu (since deceased) alongwith a tractor (Swaraj 855) with attached rotavator. He had subsequently received a call from Deepak son of Harsawroop, who told him (complainant) that his brother-Sonu had got struck in the rotavator. On hearing the same, he (complainant-petitioner) accompanied by his friend Naresh, Sukhvir and Chandan reached the spot and found that his brother was in the rotavator and had died. It was, thus, the allegation that the aforementioned persons had put the deceased-Sonu into the rotavator causing his death.

Based on the said allegations, FIR No. 590 dated 18.11.2018 under Sections 302, 34 IPC registered at Police Station Hodal, District Palwal, came to be registered, which is attached as Annexure P-1 to the present petition.

3. After lodging the FIR, the police initiated the investigation and during the course of investigation the spot was minutely inspected and the site plan was prepared and post-mortem of the dead body was got conducted by the board of doctors at the Govt. Hospital, Palwal. The copy of the PMR is annexed herewith as Annexure R-2. Thereafter, the proceedings under Section 174 Cr.P.C. were conducted and statements of witnesses, namely, Mohan Singh son of Jagram, Digamber, son of Nathi, Master Hawa Singh son of Mohar Lal, Naryayan son of Girraj, Dr. Kishan Pal son of Khivli, Naval son of Badle, Satbir son of Bedram, Devi Singh son of Jaildar, Babu son of Ghanshyam, Naresh son of Budhram all residents of village Banchari, were recorded who were present there and an inquiry was conducted from the persons present there. During the course of investigation, the named accused

namely, Deepak son of Jagvir, Parvinder son of Satbir @ Satvir @ Sattu and Yogesh son of Yashpal resident of Banchari Tehsil, Hodal, District Palwal have joined in the investigation.

4. The mechanical inspection of the tractor involved in the occurrence was got conducted, according to which the starting break, clutch and gear were found in OK condition. The copy of the mechanical inspection report is annexed as Annexure R-3 to the reply dated 08.02.2023.

5. It is also significant to mention here that during the course of investigation witnesses Deepak son of Harswaroop (friend of deceased, namely, Sonu) resident of village Banchari and Bir Singh son of Sukhram resident of village Banchari joined the investigation and stated they reached at the spot first of all. They also stated that while they went to the field of deceased and the accused Parvinder met them on the way under the over bridge of village Banchari and he was on tractor. They stated that when they reached at the spot and saw deceased Sonu rolled in the rotavator, then they shouted for help, on which Satbir Master reached there as he was engaged in work at his field near the field of the deceased. A copy of true translation of the statements of Deepak and Satbir are annexed herewith as Annexures R-4 and R-5.

6. Thereafter Satbir Master, resident of village Banchari joined the investigation and stated that on 18.11.2018, he was present on his fields since the morning. At about 5.15 p.m., on hearing the noise of Bir Singh and Deepak he reached at the spot and found deceased Sonu caught in the rotavator. Then he gave information to the Sarpanch of the village Banchari

Sh. Rajender and Vinod son of Sher Singh through his mobile phone. Thereafter the accused Parvender reached at the spot on his tractor. He also stated that he neither heard any noise of a quarrel nor had he seen any quarrel.

7. It is relevant to mention here that the investigation was verified by Inspector/SHO Devinder Kumar and, Deputy Superintendent of Police, Hodal and during the course of verification no sufficient evidence to arrest the accused persons, namely, Deepak son of Jagvir, Parvinder son of Satbir @ Sattu and Yogesh son of Yashpal resident of Banchari, Tehsil Hodal could come on the file. Permission was obtained from the Illaqa Magistrate to get conducted the polygraph test of the accused persons and their polygraph test was got conducted on 30.07.2019 in which they were found to be innocent as per report, Annexure R-6..

8 The learned counsel for the petitioner contends that no proper investigation has been carried out in the present case. In fact, the accused ought to have been arrested, subjected to remand and only then would they have disclosed the true facts of the case. Repeated representations made by the petitioner to respondents No.3 and 4 did not evoke the necessary response. He further contends that as many as 16 injuries were found on the body of the deceased as per the post-mortem (Annexure P-5) and the same would clearly make-out a case of homicide and not of an accidental death.

9. The learned counsel for the State, on the other hand, has firstly referred to the reply dated 23.07.2019 to contend that a detailed investigation was conducted, the accused were joined in the same and nothing incriminating was found against them. The mechanical inspection of the tractor also did not reveal anything which would point towards a homicidal

death. The statements of two witnesses, namely, Deepak son of Harswaroop and Bir son of Sukhram were recorded who stated that when they reached the spot, the deceased was lying dead stuck in the Rotavator. Similarly, Satbir Master was also joined in the investigation and did not support the prosecution version stating that he had not hear any noise or quarrel. In fact, when they reached the spot on hearing the noise of Bir Singh and Deepak, he had seen that Sonu had been caught in the rotavator.

10. While referring to the reply dated 08.02.2023, the learned State counsel contends that in addition to the investigation conducted, the accused were subject to a polygraph test and nothing incriminating was found in responses to the question put to them as borne out from Annexure R-6 attached with the said reply. He, therefore, contends that the investigation conducted by two DSPs cannot be faulted and in fact, the deceased has died on account of getting stuck in the rotavator and it was not a homicidal death.

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

12. A perusal of the replies dated 23.07.2019 filed by way of affidavit of Vivek Chaudhary, HPS, Deputy Superintendent of Police, Hodal, and 08.02.2023 filed by way of affidavit of Sajjan Singh, HPS Deputy Superintendent of Police, Hodal, clearly detail the manner in which the investigation has proceeded and the statements of various witnesses recorded. A polygraph test also took place wherein the named accused were found to be truthful in their responses. Therefore, at this stage, no useful purpose would be served by constituting an SIT to investigate the matter in view of the detailed investigation that has already taken place.

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13. In view of the above, I find no merit in the present petition and the same is therefore dismissed.

(JASJIT SINGH BEDI)
JUDGE

21.02.2022
Sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No