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(101)

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

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Date of Decision: 17.05.2024

Prem Singh Negi

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present: Mr. Sanjiv Gupta, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

AMARJOT BHATTI, J.

1. Petitioner-Prem Singh Negi has filed petition under Section 482 Cr.P.C. for transfer of investigation in FIR No. 0206 dated 22.05.2021 registered under Section 346 of IPC (Sections 366/302/304-B/201/120-B IPC added lateron) at Police Station Saran, District Faridabad to some other independent investigating agency (CBI) or to some penal comprising of higher rank officers on the ground that local police agency are not taking appropriate action required as per law.

2. Learned counsel for petitioner argued that victim Kiran Negi was missing since 21.05.2021. Ultimately, matter was reported



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to police next day and one complaint was also filed that she had left the house on 21.05.2021 at 03:00 pm alongwith her mobile phone No. 8006507437 with her free will and without telling anything. The family members tried to locate the whereabouts of Kiran Negi but could not find her. The petitioner suspected that his daughter has been hidden somewhere by someone. During investigation, police informed that location of the victim was traced at Mumbai but police did not go there. Thereafter, Ishtaq was arrested by police and it was disclosed that Ishtaq alongwith his companions killed his daughter. On 17.07.2021, DLF Crime Branch informed the complainant that his daughter had expired on 29.06.2021 at Sunshine Hospital, Sector 64, Ballabgarh. The police disclosed that his daughter got married with Ishtaq Khan on 29.06.2021 at Arya Samaj Mandir and on the same day she expired during treatment due to ARDS in aforesaid hospital. The hospital authorities did not inform the police. As per cyber investigation, Ishtaq disclosed that he was having love affair with Kiran Negi. His (complainant) daughter was taken to Mumbai on the pretext of providing job where they lived upto 28.06.2021. During investigation, the police could not collect CCTV footage of the said hospital. No proper investigation was carried out by the police. Copies of representations dated 17.09.2021 and 02.12.2021 are Annexures P3 and P4 respectively. As per the police investigation, dead body of his daughter was thrown in Agra Canal near Chandavali Flyover. Till date, body of victim or her belongings have not been recovered.



Learned counsel for petitioner further raised the issue that victim might have been transferred to some other country. With these arguments, it is submitted that investigation of this case may be transferred to some other independent investigating agency, as prayed for.

3. Learned counsel representing the State filed status reports from time to time. In the first status report dated 29.10.2022, it is mentioned that ASI Virender in his report submitted that pendrive containing CCTV footage of 29.06.2021 did not have any footage regarding taking away of dead body from the hospital on the said day. The said report is Annexure R-1. The death summary of Kiran Negi was procured according to which she suffered from Acute Respiratory Distress Syndrome and was admitted in the hospital by Ishtaq and his companions. The said persons had taken away the dead body from the hospital on their own without permission of hospital authorities. In para No. 5 of status report, there is reference of efforts made by investigating agency to locate the dead body of victim. In the status report dated 28.03.2023, it is mentioned that during investigation accused Ishtaq Ali, Hamid, Arbaz Khan, Mustaq Khan, Isrile and Vakil (juvenile) were arrested and after completion of investigation, challan was presented against accused except Vakil (juvenile) on 10.11.2021. Translated copy of challan report was placed on record as Annexure R-1. There is another status report dated 13.10.2023 in which there is detail of investigation regarding arrest of accused



persons on different dates as well as the report of cyber cell Annexure R-2, letter of DCP, NIT Faridabad for rechecking the DVR Annexure R-3 which are placed on record and in the latest status report dated 08.04.2024, there is detail of entire investigation which was carried out by Investigating Officer from time to time. Learned counsel for the State pointed out that after presentation of challan, trial is going on qua the accused who are major as well as accused who was juvenile. Prosecution evidence is under progress. Learned counsel for the State argued that thorough investigation was carried out by the police and thereafter, challan has been prepared. Therefore, petition filed by the petitioner is without merits.

4. I have considered the arguments advanced by learned counsel for the petitioner and have gone through the status reports filed by learned counsel for the State from time to time. The victim got missing on 21.05.2021 and thereafter, the matter was brought to notice of police which ultimately resulted into registration of present FIR on the next day i.e. 22.05.2021, which is Annexure P-1. During the course of investigation, six accused were apprehended and as per the investigation carried out from time to time, it was alleged that Kiran Negi had performed marriage with Ishtaq on 29.06.2021. She was admitted in Sunshine Hospital, Faridabad where she expired as she was suffering from Acute Respiratory Distress Syndrome. In investigation, it was further revealed that her body was thrown in Agra Canal near Chandavali Flyover. The detailed status reports



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indicate that investigation was carried out by collecting CCTV footage of the aforesaid hospital. Efforts were also made to recover the dead body of victim but unfortunately dead body could not be recovered. After completion of investigation, challan has been presented against the accused as well as one of the accused who is juvenile and prosecution evidence is being recorded. Therefore, from the status reports filed by respondent-State, it cannot be said that there was no proper investigation carried out by police. Otherwise, the petitioner has not claimed that the investigation was conducted in a biased manner. Undoubtedly the petitioner has a right of fair investigation and fair trial but at the same time, power to transfer the investigation is extra-ordinary power which can be exercised sparingly in exceptional circumstances. Gainful reference can be made to the judgment of Hon'ble the Supreme Court of India in ***Criminal Appeal No. 634 of 2023 (Arising out of SLP (Crl.) No. 2454 of 2022)***, case title "**Royden Harold Buthello & Anr. Versus State of Chhattisgarh & Ors.**", decided on 28.02.2023, where in para No. 19, it was observed as under :-

"19.though there is no inflexible guideline or a straightjacket formula laid down, the power to transfer the investigation is an extra-ordinary power. It is to be used very sparingly and in an exceptional circumstance where the Court on appreciating the facts and circumstance arrives at the conclusion that there is no other option of securing a fair trial without the intervention and investigation by the CBI or such other



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specialized investigating agency which has the expertise.”

5. Therefore, considering the facts and circumstances of the present case, I do not find any merits in the petition filed by petitioner, especially when after the completion of investigation, challan has been presented and accused are facing trial before the competent Court of jurisdiction. In the light of this, petition filed by petitioner is accordingly, dismissed.

6. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

(AMARJOT BHATTI)
JUDGE

17.05.2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No