



CRM-M-32919-2018

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

CRM-M-32919-2018

Date of Decision: 04.12.2024

Abdul Hamid

..... Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Mohd. Saleem, Advocate, for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Prayer in the present petition is for issuance of direction to the respondents to hand over the investigation to CBI or any other independent agency, to investigate regarding the death of father of the petitioner, who was incarcerated in Central Jail, Patiala for the reason that he was convicted under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the Act') in complaint No.1279 of 10.07.2013.

2. It has been submitted by learned counsel for the petitioner that one Kashmira Singh filed a complaint under Section 138 of the Act against Abdul Gaffar (father of the petitioner) titled as Kashmir Singh vs. Dr. Abdul Gaffar. Learned trial Court convicted his father in this case and he was sentenced for 10 months rigorous imprisonment and compensation equivalent the cheque amount alongwith 12 % per annum from the date of transaction till the actual realization and in case of default of compensation he was awarded simple imprisonment of three months. He has contended that father of the petitioner was a senior citizen and he died on 13.07.2018

in the Jail, however, the Jail Administration did not inform about the death



of his father to the family of the petitioner. He submits that some prisoner secretly informed the brother of the petitioner about the death of his father at about 11:00 or 11:30 a.m. at Central Jail, Patiala. He submits that the Jail staff gave beatings to his father and humiliated him after removing his clothes and dead body of his father was kept at Rajindra Hospital, Patiala. It is submitted that on 14.07.2018, the petitioner alongwith his family members reached at Rajindra Hospital, Patiala, where postmortem of his father was conducted. He submits that they were informed by the Jail staff that his father committed suicide by hanging. He has contended that one Karamjit Singh son of Nirmal Singh called the brother of the petitioner from his mobile and it was informed that he knew the reason about the death of his father and he handed over the proof regarding the foul play played by the prison staff in killing his father and he handed over a letter dated 13.07.2018. It is submitted that it is clear from the letter how his father was killed by the Jail staff after giving beatings to him in the Jail. He has submitted that CCTV footage was prayed to be saved for proper investigation of the case. He submits that news regarding the death of his father was published in the leading newspapers like 'Sunday Times of India Chandigarh, Hindustan Times etc. It is submitted that inquest proceedings were carried out by the respondent-State but they hushed up the actual cause of death of his father and hence, investigation of the case be handed over to CBI or any other agency to investigate the manner in which death of his father took place during his custody.

3. State has already filed reply way of affidavit of Rajan Kapur, Superintendent Central Jai, Patiala. It has been vehemently contended by



learned State counsel that the submissions made by counsel for the petitioner are totally false and frivolous. He has submitted that father of the petitioner attempted suicide in Jail on 13.07.2018 and he was immediately referred to Rajindra Hospital, Patiala, where, he was declared brought dead. He submits that thereafter, postmortem of the dead body was conducted and cause of death was established to be asphyxia due to hanging, sufficient to cause death in the ordinary course of nature. It is submitted that the allegations made by the petitioner in the petition were duly investigated and it was found that one convict Karamjit Singh, gave a complaint against the Jail officials as an act of vendetta, hence, the allegations made are false and frivolous. He submits that the allegations made in the FIR were duly investigated by Mr. Bhupinder Mittal, PCS, JMIC, Patiala and vide his report dated 14.07.2022, no foul play or negligence whatsoever on the part of the prison staff was found. He thus submits that father of the petitioner had committed suicide in the Jail and the same is established by the postmortem conducted. He submits that there being no merit in the petition, the same deserves to be dismissed.

4. The Court has heard counsel for the parties and perused the record with their able assistance. The precise grievance raised by counsel for the petitioner before this Court is that his father was convicted by the trial Court and while undergoing his sentence in the Jail, he died on 13.07.2018. The postmortem was conducted and the cause of death was found to be asphyxia due to hanging, sufficient to cause death in the ordinary course of nature. However, counsel for the petitioner has raised various contentions that his father was mercilessly beaten by the Jail staff



and besides this, he was restrained from offering Namaj. It has been submitted that deceased was a senior citizen and it was due to highheadedness of the Jail staff, his death took place in the Jail. Though there is an enquiry report dated 14.07.2022, however, it cannot be denied that father of the petitioner had died an unnatural death in the Jail while undergoing sentence awarded by learned trial Court. He was under the custody of the State and as such any untoward harm caused to him is required to be explained by the Jail officials. As per their own claim, father of the petitioner had committed suicide by hanging. If, it is so then also it requires a thorough probe as to how and under what compelling circumstances, the convict has committed suicide in the Jail, especially when his sentence was going to be completed shortly. In the facts and circumstances of the present case, the Court finds that fresh judicial enquiry deserves to be carried out with regard to the unnatural death of an inmate caused in the Jail to unravel the truth and if anyone from jail is found to be involved therein, he should not go escort free, on the basis of the allegations made by counsel for the petitioner, who is the son of the deceased.

5. Hon'ble Division Bench of this Court in case of **Kulwinder Singh and others vs. State of Punjab**, 2013(2) RCR (Criminal) 985 directed that the State shall entrust such custodial death cases to an independent premier investigating agency of the State or the Centre, as the case may be, in order to do complete justice to the victim as well as to the society at large.

6. Thus, the present petition is disposed of with a direction to learned Sessions Judge, Patiala to carry out a fresh judicial enquiry in case

of death of Abdul Gaffar i.e. the father of the petitioner. The respondent-State would provide complete record pertaining to the case to the Enquiry Officer without any delay. Learned Sessions Judge would complete the judicial enquiry expeditiously preferably within a period of three months from the date of receipt of copy of the order and send a detailed report to this Court and on receipt of the report, Registry would get the present case listed in the motion list as IOIN for further orders.

7. A copy of this order be sent to learned Sessions Judge, Patiala forthwith.

04.12.2024			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No