

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

CRM-M-44325-2023 (O&M)
Date of decision: 14.02.2024

Sonia

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gaurav Jain, Advocate
Mr. Ravi Yadav, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

Mr. Akashdeep Singh, Advocate
for respondent No.9-CBI.

HARPREET SINGH BRAR, J.

1. The petitioner has approached this Court by filing present petition under Section 482 of the Code of Criminal Procedure for issuance of directions to respondents No. 1 to 3 to entrust the investigation in FIR No.0049 dated 28.01.2023 under Sections 302/34 of IPC and Section 25 of Arms Act, 1959 registered at Police Station Sector 10, Gurugram (Annexure P-1) to an independent agency like Central Bureau of Investigation.

FACTUAL BACKGROUND

2. The facts in brief are that the deceased husband of the petitioner was a property dealer working along with respondents No.4 to 8. Due to a monetary dispute qua a land deal, the relationship between her husband and other partners soured to the point where the private respondents even threatened

to kill him. Allegedly, respondent No.5, namely, Kalu Patli @ Devender owed Rs.2 Crores and respondents No.4, 6 & 7 owed around Rs.9 Crores to the husband of the petitioner which was never paid back despite repeated requests made by him. On 04.01.2023, husband of the petitioner informed her that he is going out to settle the accounts with the private respondents. However, her husband did not return and was nowhere to be found even after an extensive search. Then, on 06.01.2023, the petitioner went to lodge a missing complaint at Police Station Rajender Park and got a call from Hayatpur Police Chowki informing her that bullet ridden dead body of her husband has been found near the railway line near Dwarka Expressway.

CONTENTIONS

3. The learned counsel for the petitioner *inter alia* contends that from the very inception, the jurisdictional police authorities are trying to shield the culprits. The investigation has been subverted in a calculated manner to cover up the case. The Investigating Officer has introduced false witnesses and arbitrarily recorded the statements of real witnesses. Further, all the incriminating material was also not brought on record to help the accused. In spite of the fact that the petitioner had filed the complaint on 06.01.2023 i.e. the date of occurrence itself, wherein, the names of the accused and the motive is clearly stated, the FIR was only registered after 21 days i.e. on 28.01.2023. Furthermore, a country made pistol and live cartridge were also recovered from the place of occurrence and yet the local police has not arrested the accused. Even though the scientific evidence in the shape of ballistic report dated 07.03.2023 clearly proves that it is a case of murder, the local police has not made any effort to interrogate the accused. The postmortem report of the

husband of the petitioner clearly states that he died due to firearm injury. The petitioner has given multiple complaints dated 15.02.2023, 01.03.2023 & 10.04.2023 (Annexure P-6) (colly) to change the Investigating Officer but neither the Investigating Officer was changed nor the investigation has been concluded even after passing of more than one year. The aforementioned facts clearly vindicates the apprehension of the petitioner that the accused persons are very influential and the jurisdictional police is acting under their influence and as such, the petitioner was left with no other choice but to approach this Court by filing the instant petition on 23.08.2023. Even till date, the Investigating Officer has not done anything tangible to allay the apprehensions of the petitioner. He further submits that the petitioner has lost all hopes of getting justice from the jurisdictional police authorities.

4. Per contra, the learned State counsel refers to the status report dated 31.01.2024, wherein, assurance was given that the investigation will be brought to its logical conclusion and submits that the Investigating Officer is making all efforts to complete the investigation. Respondents No.5 to 9 who were named as accused by the petitioner were joined in the investigation, however, nothing incriminating has surfaced. It is further contended that the investigation is now entrusted to Crime Unit, Sector 10, Gurugram. Lastly, the learned State counsel submits that the investigation is being conducted in a fair manner and all efforts would be made to ascertain the truth and the Investigating Agency has no intent or purpose to weaken the case of the prosecution.

5. Learned counsel for respondent No.9-CBI submits that in case the investigation of the FIR (*supra*) is entrusted to CBI, to facilitate the same, the

State Police may provide a panel of three names of officials of the rank of Inspector (01) and Sub-Inspector (02) so that the CBI may select and put together an appropriate and effective team, along with four Constables and one vehicle with a driver as the CBI is facing a major shortfall of personnel which would impact the investigation of the present case as per the Standard Operating Procedures (SOPs).

OBSERVATION & ANALYSIS

6. Having heard learned counsel for the parties and after perusing the record, it transpires that specific allegations have been made by naming all the accused in the FIR itself and a very strong motive has also been accorded to the accused in the FIR by the petitioner. Even though, more than one year has passed since the registration of the FIR, there is a complete lull in the investigation and there is a manifest failure on part of the jurisdictional police authorities in performing their statutory duty in a murder case. This Court would refrain from commenting on the conduct of the Gurugram Police and without making any further remarks on the veracity of the material available on record lest it may prejudice the outcome of the investigation, this Court finds that it is a fit case for entrustment of investigation to respondent No.9-CBI to meet the ends of justice.

7. At this stage issuance of notice to respondents No.4 to 8 is not required in view of the judgment of the Hon'ble Supreme Court in **State Bank of India and others vs. Rajesh Agarwal and others in Civil Appeal No. 7300 of 2022** decided on 27.03.2023.

8. The right to fair trial is not only restricted to the accused. It extends to the victim and the society as well. Nowadays, all the attention is given to the

accused to ensure fair investigation resulting in a fair trial while little concern is shown to the victim and the society. The onerous duty to maintain a middle ground to secure fair investigation and trial of the accused without sacrificing the interest of the victim and the society is cast upon the Courts.

9. This Court in exercise of its inherent power under Section 482 Cr.P.C to secure the ends of justice can entrust the investigation to an independent agency to rule out any bias. If the circumstances are such that it would create a reasonable apprehension of bias in the minds of onlookers, it is sufficient to invoke the doctrine of bias.

10. It is a settled law that where a constitutional Court can invoke its power to transfer the investigation to a different agency, especially when it becomes necessary to provide credibility and instil confidence in the investigation or where such order may be necessary for doing complete justice and enforcing the fundamental rights. A reference in this regard can be made to **Rashmi Behl vs. State of Uttar Pradesh and others, 2015(2) RCR(Crl.) 45; State of Punjab vs. Davinder Pal Singh Bhullar and others, 2012(1) RCR(Crl.) 126, State of Punjab vs. Central Bureau of Investigation and others, 2011(9) SCC 182, R.S Sodhi vs. State of U.P., 1994 AIR (SC) 38, Kashmeri Devi and Delhi Administration, (1988) SCC (Cri.) 3 864 and Rubabbuddin Sheikh Vs. State of Gujarat (2010) 2 SCC 200.**

11. The petitioner is going pillar to post in hopes of getting justice for the murder of her husband and has registered four complaints regarding fair investigation of the same. In view of the legal maxim-*Justice should not only be done, but should manifestly and undoubtedly be seen to be done*, this Court is of the opinion that endeavours must be made to provide solace to the relatives of the victim and assure them that the investigation will be conducted fairly.

CONCLUSION

12. Let the matter be referred to the Central Bureau of Investigation to investigate and file its report before the concerned Court preferably within a period of four months from the registration of the case. The Commissioner of Police, Gurugram is directed to hand over the complete record of the case and provide requisite logistical support and manpower to the CBI within a period of two weeks from today.

13. Disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

14.02.2024
Neha

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