

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-36155-2019

Date of decision: 04.03.2024

PARAMJEET KAUR AND OTHERSPetitioners

VERSUS

STATE OF PUNJAB AND OTHERSRespondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Baltej Singh Sidhu, Senior Advocate with
Mr. Robin Singh Bhullar, Advocate and
Mr. Jashandeep Singh, Advocate
for the petitioner.

Mr. T.P.S. Chawla, Sr. DAG, Punjab

VINOD S. BHARDWAJ, J. (Oral)

1. Prayer in the present writ petition is for directing the respondents to pay compensation of Rs. 2 Crores to the petitioners for the custodial death of Tarlochan Singh son of Mohinder Singh in District Jail, Sri Muktsar Sahib on 13.07.2019.
2. Learned Senior counsel appearing on behalf of the petitioners contends that the petitioner No.1 is wife of deceased Tarlochan Singh while petitioners No.2 and 3 are daughter and son of deceased respectively. The deceased Tarlochan Singh was allegedly involved and implicated in a case bearing FIR No. 89 dated 12.04.2019 registered under Section 376 IPC read

with Sections 3 & 4 of the Protection of Children from Sexual Offences Act, 2012 at Police Station City, Sri Muktsar Sahib, on a statement made by one Khushwinder Kaur daughter of Mohan Singh. He was taken in custody on 12.04.2019 and a final report under Section 173 Cr.P.C. was filed in the Court on 30.05.2019. On 13.07.2019, Tarlochan Singh committed suicide in District Jail, Sri Muktsar Sahib. As per requirements of Section 176 Cr.P.C., Additional Chief Judicial Magistrate, Sirsa was appointed as a Inquiry Officer to look into the said matter and the inquiry was conducted on the same day itself and the report was sent to the District Judge. It is contended that the above said inquiry report established that Tarlochan Singh had committed suicide while in Police custody. He contends that the deceased had been involved in a false case and the complainant party was demanding money from him. ASI Sukhpal of Police Station Sadar, Sri Muktsar Sahib had also stated before the ACJM that he had taken into his possession 8 loose papers and 2 notebooks from Tarsem Singh, Assistant Jail Superintendent allegedly found by him from the belongings of Tarlochan Singh. He submits that the jail officials had told the petitioners that Tarlochan Singh left behind a suicide note in the diary in which he named certain persons as the reasons of his committing suicide. A separate request was thereafter submitted by the petitioner to register an FIR before the Superintendent Jail, however, to no avail. Having been left with no other option, CRM-M-45028 of 2019 was filed by the petitioner before this Court for issuance of directions to the Police to register the FIR on the basis of the hand written note.

3. He further submits that the deceased had good academic record to his credit and he was having a degree in M.SC (Physics) and was working

as a Teacher in National Public School, Sri Muktsar Sahib. He used to earn his livelihood from the same and to maintain the family. On account of the untimely death of Tarlochan Singh, the family is suffering from financial incarceration. A prayer for compensation was thus accordingly made in the present writ petition due to custodial death.

4. Reply on behalf of respondents No.1 to 3 had been filed by way of affidavit of Shivraj Singh Nandgarh, Superintendent of Jail, District Jail, Sri Muktsar Sahib wherein the factum of death of Tarlochan Singh is not disputed, however, it was submitted that the ACJM conducted an enquiry and submitted his report on 13.07.2018 wherein it was specifically recorded that there is no foul play of any kind which was attributed to the Jail authorities and the grievance, if any, on the part of the deceased Tarlochan Singh could at best be due to his involvement in the said FIR.

5. It has been fairly informed by the learned Senior Counsel appearing on behalf of the petitioners that an FIR into the incident had already been registered and that the CRM-M-45028 of 2019 stands withdrawn. No rejoinder has been filed to written statement. Even though the same was filed in March, 2020 and a period of 04 years approx has elapsed.

6. I have heard learned counsel appearing on behalf of the respective parties and have gone through the record appended alongwith the present writ petition.

7. The claim of the petitioners for seeking compensation emanates from an allegation of custodial death due to acts that was suspected to have been attributed by the state instrumentalities. The matter has however already been inquired into by the Additional Chief Judicial Magistrate and a

report has been submitted on 13.07.2019 that there was no foul play which is attributable to the deceased. There is no evidence on record of any nature whatsoever on the basis whereof it could be held that the deceased was subjected to any foul/by treatment while in custody or have been manhandled or given beating/torture by the jail authority. Merely because the incident in question happen to be in the premises cannot *ipso facto* be sufficient to hold the respondent-State liable. The above said reply was filed by the respondent-State in March, 2020 and nearly four years has elapsed since then, however, no rejoinder/replication has been filed against the same. Hence, the stand of the respondents as regards absence of any foul play/misconduct of the jail authority or State agencies remains uncontroverted.

8. Even though it is not in dispute that some sort of additional precautions may have been taken that may have avoided the above said incidence, however, at the same time, it cannot be lost sight of the fact that an attempt of commission of suicide by the deceased had no link to any overt act or omission on the part of the respondent-State.

9. Thus, disputed questions of facts would arise for adjudication in the present writ petition and it cannot be held that the State would be strictly liable as there is no attributable omission on the part of the State that would entitle the petitioner to claim compensation from the respondent-State. Besides, the report submitted by the Additional Chief Judicial Magistrate under Section 176 Cr. P.C. has also been perused. Statements of as many as 15 witnesses was recorded by the Inquiry Officer before recording his conclusions which are extracted as under:-

“20. I have carefully scrutinized the statements of the all the persons who were examined during the enquiry. From the statements of relatives of deceased Tarlochan Singh son of Mahinder Singh along with the statement of inmates and Jail Superintendent and the doctor who examined him in the jail, it comes out that his dead body was found hanging in the room situated on the first floor of the jail hospital where he used to teach the other jail inmates. As per his postmortem report, ligature marks were present around his neck from where it can be inferred that Tarlochan Singh son of Mahinder Singh committed suicide by hanging himself in the jail in the morning of 13.07.2019. From the statements of Viplove Bhullar, Kulwant Singh, Paramjeet Kaur are jail inmate Ganesh it comes out that Tarlochan Singh was under tension and due to this reason he committed suicide. All the witnesses have also stated that he was having no dispute of any kind with anybody in the jail. Further in view of the statements of Tarsem Singh, Assistant Jail Superintendent and Shivraj Singh Nandgarh, Jail Superintendent, alleged suicide notes were also found from belongings of Tarlochan Singh which have already been handed over to police by aforesaid Tarsem Singh. From the post mortem report of deceased, no other injury mark on the body of deceased Tarlochan Singh except the ligature mark around his neck was present on his body. There is no evidence of physical assault of any kind to Tarlochan Singh. Thus, from the preliminary inquiry it is clear that the death of Tarlochan Singh was due to suicide and no foul play of any kind be attributed to the jail authorities or any of the jail inmate.”

10. As per the said statements, even the petitioners have not attributed any acts or omission to the jail staff or any foul treatment. There is no mark of any injury and no role is attributed to State. The allegation at best is that the complainant had implicated the deceased in the case and well

demanding money to settle the same. The said act can't be assumed as a dereliction or misconduct by the State.

11. The present writ petition is accordingly disposed of as not maintainable at this stage in view of involving disputed questions of fact. Liberty, is however, granted to the petitioner to pursue their remedies in accordance with law for seeking compensation after leading evidence and establishing negligence on the part of respondents.

(VINOD S. BHARDWAJ)
JUDGE

MARCH 04, 2024
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No