

2025:PHHC:045396



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

CRM M-44338-2024 (O&M)

Date of Decision:11.03.2025

Deepika Sharma

...Petitioner

Versus

State of Haryana and another

... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Arvind Kumar Shukla, Advocate (through VC) and
Mr. Siddharth Sarup, Advocate
for the petitioner.

Mr. Rajinder Kumar Banku, DAG, Haryana.

N.S.SHEKHAWAT, J.

1. The petitioner has filed the present petition under Section 482 Cr.P.C., with a prayer to issue directions to the official respondents to conduct further investigation in a case FIR No. 0139 dated 26.10.2022 (Annexure P-2) under Sections 148, 149, 201, 302, 323, 325, 427 and 120-B IPC registered at Police Station Bhupani, District Faridabad. A further prayer has been made to appoint a competent impartial team to ensure that the investigation is conducted effectively, without any external influence.

2. The complainant in the present case is widow of Mohit Yadav, who was killed at around mid night of 25/26.10.2022 in his

village. Ultimately, FIR No. 0139 dated 26.10.2022 (Annexure P-2) under Sections 148, 149, 201, 302, 323, 325, 427 and 120-B IPC Police Station Bhupani, District Faridabad was ordered to be registered on the basis of the statement made by the present petitioner/complainant. Learned counsel for the petitioner vehemently argued that the police had not conducted investigation fairly and crucial evidence in the present case was deliberately overlooked. Even, the evidence at the spot was tampered by the police in collusion with the accused and the investigation was compromised at various levels. Even, the police had made the arrest of the accused selectively and the petitioner has not been able to lead her life peacefully as she has well founded apprehension that she may also be eliminated by the accused in the present case. Further, it was also apparent that SI Surender Singh, who had conducted investigation was constantly in the touch with the accused in the present case and the investigation was conducted in the most unfair manner, by completely overlooking the interests of the prosecution. The petitioner also tried to apprise the higher police authorities of the aforesaid facts and requested them to ensure a fair investigation and to further ensure that all the accused were booked for committing a heinous crime. Even, there was a clear cut motive with the accused as few months ago, Abhishek, Raj Kumar, Sanjay and other co-accused had got into heated arguments and scuffled with Mohit Yadav (since deceased).

3. Learned counsel for the petitioner further argued that all the accused were taken into custody and in their statements, they had admitted the deadly assault. Even, from a perusal of the statements of all the accused, recorded under Section 161 Cr.P.C. (Annexure P-3), it was evident that all the accused had admitted the deadly assault and had confessed that the entire family was involved in killing of husband of the petitioner. Learned counsel further argued that Vikas Chauhan, accused, was constantly in touch with the police personnel including the SHO, Police Station Bhupani prior to the commission of the crime and even thereafter. Even, he was in touch with ASI Dinesh also over phone and several calls were made by him on 25/26.10.2022. Learned counsel further submitted that the CDR reports further established that a press reporter namely, S.S. Rathore was constantly in touch with Vikas, accused and had influenced the process of investigation in the present case. Even, as per the CDR report, accused Vikas was present at the place of the occurrence prior to the occurrence and he also visited the place of occurrence on the next day.

4. Learned counsel further submitted that as per the postmortem report (Annexure P-7), Mohit Yadav (since deceased) had suffered only two injuries on his person whereas from the CCTV footage, it was apparent that the deceased had been inflicted many injuries by approximately 20 assailants and even the postmortem report also raises serious questions over the investigation and the

postmortem report was prepared by the doctors at the instance of the police officers. Even, the CCTV footage was collected by the police, which clearly showed that more than one accused was seen assaulting the victims with the shining sharp edged weapons/swords etc., However, no such injuries reflected in the postmortem report. Learned counsel further submitted that the police officials were constantly in touch with the accused in the present case and the police had taken no initiative to arrest them or to locate them in the nearby places. Still further, even after the occurrence, the petitioner was being constantly threatened by the accused in the present case and the local police and the accused may eliminate the petitioner as well. The petitioner also submitted various reports to the Commissioner of Police as well as the DGP, Haryana, but her requests fell on deaf ears.

5. On the other hand, learned State counsel has filed a detailed status report by way of an affidavit of the Deputy Commissioner of Police (Crime), Faridabad and the same was taken on record. Learned State counsel vehemently argued that on getting the information on 26.10.2022 regarding two persons, who were lying unconscious and injured condition, the police had reached at the given address without any delay. The petitioner moved a written complaint to the police and on the basis of her complaint only, the FIR was promptly registered by the police. After registration of the case, the investigation was set into motion and statements of various witnesses were recorded. Even, the postmortem report (Annexure R-1) was got

prepared by the police from a board of three doctors of Civil Hospital, Faridabad and as per the opinion of the doctors, the cause of death in this case was shock and haemorrhage due to injuries to the vital organs, i.e., brain and the injuries were antemortem in nature and sufficient to cause death in ordinary course of nature.

6. During the course of investigation, the police arrested accused on 26.10.2022 and a bamboo stick was recovered from him. Mukesh and Kunal @ Chirag were arrested on 03.11.2022 and 28.11.2022. Mukesh, accused suffered a disclosure statement regarding the involvement of Karan, accused and Section 120-B IPC was added. Kunal @ Chirag was arrested on 28.11.2022 and a mobile phone make OPPO, which was used in the crime was recovered. Mohit son of Karan Singh was summoned on 30.11.2022 and was interrogated and the CCTV footage of the incident was obtained from him. Rahul Chauhan was arrested on 03.12.2022 and the stick which was used in the commission was recovered from him. Sumit and Vishal were arrested on 07.12.2022 whereas Shubham Chauhan and Nishant Chauhan were arrested on 22.12.2022. Sanjay accused was arrested on 16.01.2023 and a stick was recovered from him. After the completion of investigation, the first report under Section 173 Cr.P.C. was presented against the accused on 23.01.2023. Later on, Vinay, Akash, Harash and Raj Kumar @ Bhola were arrested and bamboo sticks were recovered from them. Another juvenile (name withheld) was apprehended on 05.04.2023 and Raj Kumar @ Bohla was

arrested on 18.04.2023. Again, supplementary charge sheet against Vinay, Akash, Harsh and Raj Kumar @ Bhola was filed on 09.05.2023. After presentation of challan, the trial Court framed the charge against the accused on 06.09.2023 and the case was listed for prosecution evidence. Even thereafter, Abhishek co-accused was arrested on 12.01.2024, Vikas @ Sonu and Lokesh @ Lucky were were also arrested on 21.03.2024 and the challan was presented against them on 14.06.2024. Learned State counsel vehemently argued that in the present case, after completion of the investigation against 17 accused and 1 juvenile, charge sheet had been submitted against all the accused. Even, the sealed parcels were sent to forensic science laboratory and as per the report received from RFSL, Bhondsi (Gurugram), blood had been detected on bamboo stick, T-shirt, slippers, underwear, jacket and lower. Learned State counsel further submitted that in the present case, the charge sheet were filed on 23.01.2023 and 02.05.2023 and charge was framed by the trial Court on 06.09.2023 whereas the petitioner has filed the present petition, seeking fair investigation on 02.09.2024 after a long and unexplained delay. Even, the petitioner had not provided any reasonable explanation for further investigation. He further contended that still at this stage the further investigation was conducted by a special investigation team as one of the accused has not been arrested so far.

7. Learned State counsel further submitted that it has been falsely alleged that the police was in touch with the accused in

connection with the investigation of the present case. In fact, Kanika daughter of Mukesh Chauhan had submitted a complaint at Police Station Bhupani and she had provided the number of accused Vikas Chauhan to the Investigating Officer of the said complaint. Kanika, complainant, had levelled allegations against Mohit Yadav, since deceased. In fact, Mohit Yadav, since deceased and his accomplices had quarreled with sister-in-law of Kanika by trespassing in their house in a Baleno car. The police also reached at the spot, but Mohit Yadav (since deceased) had already fled the spot. Kanika and her sister-in-law Sneha were taken to Civil Hospital Faridabad by their family members for medical examination and the police was called. Vikas Chauhan, accused had made phone calls to Surender Singh, SHO of the police station with regard to the complaint submitted by Kanika. Even, SI Surender Singh had contacted Vikas Chauhan to trace the culprits of the present case and persuaded him to bring the accused to the police station. Even, the police had interrogated S.S. Rathore, who had no connection with the investigation of the present case. Learned State counsel further submitted that in the present case, the police had conducted the investigation in a fair and impartial manner and the petitioner has failed to point out any shortcomings in the investigation. Even, the police has already taken action against 18 accused and the incriminating evidence/weapons of offence have already been collected by the police and it has been wrongly alleged

that the police was hand in glove with the accused. Consequently, the present petition deserves to be dismissed by this Court.

8. I have heard the learned counsel for the parties, gone through the record with their valuable assistance and bestowed thoughts over the entire matter.

9. The law with regard to the transfer of investigation to some independent Investigating Agency or to some senior police officers is no more *res integra* and is now well settled. In fact, the power of transferring the investigation to some independent agency or to order further investigation must be exercised in rare and exceptional cases where the Court finds it necessary in order to do justice between the parties and to instill confidence in the public mind, or where the investigation by the State police lacks credibility and it is necessary for having “a fair, honest and complete investigation” particularly, when it is imperative to retain public confidence in the impartial working of the State agencies. At the same time, it was ruled that where the investigation has already been completed and charge sheet has been filed, ordinarily superior Courts should not reopen the investigation and it should be left open to the court, where the charge sheet has been filed, to proceed with the matter in accordance with law. Under no circumstances, should the court make any expression of its opinion on merit relating to any accusation against any individual/accused. It was also held that the High Court has vast powers to refer the matter to an independent

agency under Articles 226/227 of the Constitution of India and Section 482 Cr.PC, if exceptional case is made out, even after the submission of final police report (challan) in order to secure the ends of justice. However, despite wide powers while passing such order, the Courts must bear in mind certain self imposed limitations on the exercise of these constitutional/statutory powers. Similarly, it was ruled that the very plenitude of such power requires great caution in its exercise. It should not be exercised in a routine manner or only because a party has leveled some allegations against the local police.

10. Sequelly, the Constitutional Bench of Hon'ble Supreme Court in case ***State of West Bengal and others v. Committee for Protection of Democratic Rights, West Bengals and others*** 2010(2) ***RCR (Criminal) 141: 2010(1) Recent Apex Judgments (R.A.J.) 664: (2010) 3 SCC 571***, after considering the relevant legal provisions and the earlier judgments, ruled as under (para 70) :-

“Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by Articles 32 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these Constitutional powers. The very plenitude of the power under the said Articles requires great caution in its exercise. In so far as the question of issuing a direction to the CBI to conduct investigation in a case is concerned, although no

inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extra-ordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise the CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations.”

11. In the present case also, it is apparent from the record that immediately on getting the information regarding the crime, the police swung into action and the FIR was registered by the police on the basis of the complaint moved by the present petitioner, with promptitude. Thereafter, the police collected the incriminating evidence from the spot and the postmortem report (Annexure R-1) was got conducted from a board of doctors of Civil Hospital,

Faridabad. Even, the MLR of Naveen injured was prepared and immediately thereafter, the police started arresting the accused on the day of registration of the FIR itself and Karan, accused was arrested on 26.10.2022 itself and a bamboo stick was from him. Even, the police had arrested 18 accused in the present case including one juvenile and had also arrested Vikas Chauhan, who was also allegedly in touch with the police officials. Consequently, the arguments raised by the learned counsel for the petitioner seemed to be based on some speculative apprehension. Still further, it has also been found that Kanika and her sister-in-law had also moved complaint against Mohit Yadav, since deceased/victim in the present case and Kanika had provided the mobile number of Vikas Chauhan in the present case. Consequently, Vikas Chauhan, was in touch with the police official, to ensure action against the culprits, who were named by Kanika and her sister-in-law. Apart from that, several accused were involved in the present case and the police had made phone calls to Vikas Chauhan, only to persuade the accused to surrender before the concerned authorities and when they did not surrender, all the accused were arrested by the police. Still further, from a perusal of the record, it is apparent that the police had fairly conducted the investigation, arrested the main accused, collected the evidence and even traced the indicational motive to commit the murder of Mohit Yadav by the accused in the present case. The learned counsel for the petitioner has miserably failed to point out as to how, when and in what manner, the

investigation was interfered, particularly when the police has arrested 18 accused in the present case and has also collected sufficient evidence against the accused. Moreover, the FIR in the present case was registered on 26.10.2022 and the challan was presented against the accused on 23.01.2023. Even, the supplementary challan was presented on 02nd May 2023. After the presentation of challan, the trial Court framed charge against the accused on 06.09.2023, whereas the present petition has been filed by the petitioner on 02.09.2024, when the case was listed for prosecution evidence and few witnesses had been recorded. Thus, in view of the unreasonable delay on the part of the petitioner also, the present petition deserves to be dismissed by this Court.

12. In the light of the aforesaid reasons, taking into consideration the totality of the special facts and circumstances, emanating from the record, as discussed hereinabove and without commenting further anything on the merits, lest it may prejudice the case of the either side during the trial of the main case, the present petition deserves to be dismissed.

11.03.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

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