



CRM-M-52598-2022

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

CRM-M-52598-2022

Date of decision: 12.08.2025

Mohd. Iqbal

....Petitioner

V/s

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

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

Mr. Tarun Aggarwal, Additional Advocate General, Haryana.

Mr. Sarfraj Hussain, Advocate for respondent Nos.6 to 9.

SUMEET GOEL, J.

1. The petition in hand has been filed under Section 482 of Cr.P.C. praying for transfer of investigation of the FIR No.239 dated 05.09.2022, registered under Section 302 of IPC at Police Station Pinangwa, District Nuh to respondent No.2 i.e. CBI from the local police.

2. The gravamen of the FIR in question is that the complainant has averred that his nephew namely Munir Khan @ Sameer, aged about 10/11 years was pursuing studies in Arabic and Urdu at Madrasa Dargahwala, village Shah Chokha. On 03.09.2022, Mr. Hazi Akhtar, brother of Mr. Kallu, Sarpanch of village Ter, informed the complainant that his nephew was missing from the madrasa. Thereafter, every possible effort was made by the complainant to trace his nephew but to no avail. On 05.09.2022, at around 01:00 PM, Akhtar informed the complainant that the dead body of his nephew was found inside a small room at Madrasa Dargahwala in Jama Masjid and a foul smell is coming. It was further alleged by the complainant that he has a strong reason to believe that his nephew had been murdered. In



view of the facts narrated hereinabove, the petitioner had requested for strict action against the accused.

3. Learned counsel for the petitioner has iterated that the local police has failed to investigate the material facts of the present case. It has been further iterated that the local police has neither conducted a fair inquiry nor made earnest efforts to ascertain the true facts and circumstances leading to the brutal murder of the nephew of the petitioner. Learned counsel has asserted that the petitioner has completely lost faith in the local police who has not conducted free and fair investigation into the FIR in question on account of influence exerted by the private respondents. It has been urged, on behalf of the petitioner, that the incident in question is a blind murder which solely rests upon the circumstantial evidence and hence a thorough and impartial investigation needs to be conducted by a specialized/independent agency i.e. respondent No.2-CBI. On the basis of aforesaid submission, the petitioner has sought for grant of prayer as made in the petition.

4. Notice of the petition in hand was issued whereupon a reply by way of affidavit of Ajaib Singh, Deputy Superintendent of Police, Ferozpur Jhirka has been filed, relevant whereof reads as under:

“10. That on 15.07.2023, the notice was issued to the respondent no.6, 7 and 9 i.e. Adil, Izhar, Salman and Armaan. The said respondents no. 6 to 9 the Maulvi of the Madarsa namely Zakir and the students of Madarsa namely Mohd. Saif S/o Salim. Mohd Arbaaz S/o Noor. Ahsaan and Suhaan were joined in the investigation and their statements were recorded.

11. That thereafter, the notice was issued to the respondent no. 6 to 9 on 24.07.2023 for getting conducted their polygraphy tests. The requisite permission for polygraphy test was obtained from the Ld. Court. Their polygraphy tests were got conducted 05/06.05.2024 at FSL Rohini (New Delhi). The report dated 25.07.2024 was received from FSL Rohini and as



per the said report, the respondents no. 6 to 9 were found to be truthful in their answers. Copy of report dated 15.07.2024 is attached herewith as Annexure R-6 for kind perusal of this Hon'ble Court.

12. That thereafter, in pursuance of directions issued by this Hon'ble Court vide order dated 22.01.2025 in the present CRM-M No. 52598 of 2022, a Special Investigation Team was constituted by the Superintendent of Police, Nuh vide no. 926-928/Rdr dated 29.01.2025 consisting of (1) SHO P.S. Pinagwan, Nuh, (2) ASIMool Chand No. 141/Nuh. P.S. Pinagwan to conduct investigation of the present case, under the supervision of DSP Punhana.

13. That during the course of investigation conducted by the said SIT, the complainant party as well as the respondent no. 6 to 9 were joined in the investigation on 04.03.2025. Further, the enquiry regarding the present matter was also made from the respectable persons of the area on 04.03.2025. However, the complainant could not produce any new fact or evidence against the respondent no. 6 to 9. The place of occurrence was also visited by the members of the SIT on 05.03.2025. The complainant was again joined in the investigation on 10.03.2025 and he was enquired about the present case. The students of the Madarsa were also enquired. However, no incriminating evidence has come forth against the respondent no. 6 to 9.

14. That the role of juvenile Wafiq in the present case is that he had killed Munir @ Samir by strangulating his neck and by hitting his head on the wall. He had also punched him on his nose. He had hidden the dead body of Munir @ Samir under the sand at the Madarsa.

15. That from the above averments, it is revealed that the investigation of the present FIR has been conducted fairly, diligently and intensely by the investigating agency as well as by the recently constituted SIT, however, no incriminating evidence has come forth against the respondent no. 6 to 9. Thus, the transfer of investigation of the present FIR is not warranted and the present petition deserves to be dismissed and it is prayed accordingly.”

After having raised submission in tandem with the aforesaid reply, learned State counsel has further iterated that final report/challan has been filed on 12.10.2022, whereinafter, the charges were framed on 01.12.2022 for the offences under Sections 302, 201 of IPC. Out of 21 prosecution witnesses cited, 09 have been examined and 02 have been given



up. Learned State counsel has further argued that once the final report/challan has been presented by the police, the instant petition has been rendered infructuous. Accordingly, the dismissal of the petition in hand is sought for.

5. Learned counsel appearing for respondent Nos.6 to 9 has vociferously opposed the present petition by arguing that the private respondents have been falsely implicated in the FIR in question as the allegations are unsupported by any credible material. According to learned counsel, the local police has diligently investigated the matter in accordance with law and no incriminating evidence has come forth against the private respondents. Merely, because the petitioner is dissatisfied with the outcome of the investigation cannot be ground to transfer the same to the CBI and hence the instant petition deserves to be dismissed.

6. I have heard the learned counsel for the rival parties and have gone through the available record of the case.

7. Before delving into the merits of the present matter, it would be germane to refer herein to a judgment passed by this Court in *NXXXX vs. State of Haryana and others; 2024(3) PLR 531*, while relying upon a judgment of the Hon'ble Supreme Court in case of *Rubabbuddin Sheikh versus State of Gujarat and others, AIR 2017 Supreme Court 1914; Pooja Pal versus Union of India and others, AIR 2016 Supreme Court 1345; Dharam Pal versus State of Haryana and others, 2016 AIR Supreme Court 618* and *Dr. Naresh Kumar Mangla versus Anita Agarwal & Ors. Etc.: AIR 2021 Supreme Court 277*; has held thus:

“(B) Re: *WHETHER HIGH COURT IS ENTITLED TO TRANSFER INVESTIGATION FROM LOCAL POLICE TO CBI EVEN AFTER LOCAL*



POLICE HAS COMPLETED INVESTIGATION AND HAS PRESENTED FINAL REPORT/CHARGESHEET/CHALLAN.

xxx	xxx	xxx	xxx
xxx	xxx	xxx	xxx

17. As a result of above-said rumination, the following postulates emerge:

I. The High Court has power(s) to direct for investigation/further investigation by CBI even when investigation by local Police etc. has concluded and charge-sheet has been filed.

II. The High Court’s power; to direct for investigation/further investigation when investigation by local Police etc. is concluded and charge-sheet has been filed; is not denuded even when proceedings in such a trial (emanating from charge-sheet filed by local Police) has commenced and even some/substantial prosecution evidence has been recorded before such trial Court.

III. For a plea (seeking transfer of investigation/further investigation to CBI when local Police has already submitted charge-sheet after culmination of investigation) to succeed, accentuating facts/circumstances are pertinently required to be brought forth.

IV. Such power may be exercised by the High Court either by way of its writ jurisdiction under Article 226 of the Constitution of India or by way of its inherent jurisdiction under Section 482 of Cr.P.C., 1973/Section 528 of BNSS, 2023.

V. There is no gainsaying that the nature, mode and extent of such exercise of powers by High Court shall depend upon the judicial discretion exercised by the High Court in the facts and circumstances of a given case. No exhaustive guidelines can possibly belaid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstances. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such matter. ”

8. The prime prayer made in the instant petition is for transfer of the investigation of the FIR in question to respondent No.2 i.e. CBI from the local police. It is well settled that transfer of investigation from the local police to an independent agency i.e. CBI is to be exercised sparingly and only when there exist convincing circumstances indicating the police is



unable to conduct a fair investigation. However, from the material on record, it transpires that except for general allegations, no substantive evidence has been brought on record to show any mala fide or deliberate inaction on the part of the Police. The mere fact that the case is based on circumstantial evidence or that the petitioner has lost faith in the local police, by itself, cannot constitute sufficient ground for such transfer. Furthermore, in the present case, there is nothing to indicate that the investigation has been carried out in violation of legal principles or that material evidence is being deliberately withheld or ignored. Simply because the case put forth by the petitioner (herein) has not been found to be true by the Police, cannot be considered a cause, good enough, to transfer the investigation of the FIR in question to an independent agency much less the CBI.

In view of the prevenient ratiocination, it is directed as under:

- (i) The present petition is devoid of merit and is hereby dismissed. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
- (ii) The petitioner shall, however, be at liberty to seek appropriate remedy(s) as per law during the course of the trial, if so advised.
- (iii) Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

August 12, 2025
Ajay

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