
(2011) 03 P&H CK 0107
In the Punjab And Haryana At Chandigarh
Case No : CRM No. M 28497 of 2009

Anoop Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 18-03-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (2011) 03 P&H CK 0107

Hon'ble Judges : Nirmaljit Kaur, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Nirmaljit Kaur, J.—This is a petition u/s 482 Code of Criminal Procedure with prayer to order probe into the disappearance/murder of the son of the Petitioner namely Harwinder Singh, student of B.A.M.S. Course, Government Ayurvedic College, Patiala by Central Bureau of Investigation and also register the FIR.

2. The son of the Petitioner, namely, Harwinder Singh was admitted in BAMS Course and was the student of Ist year in Government Ayurvedic College, Patiala, where he was staying in the Hostel of the College. On 21.05.2009, the Petitioner got a telephonic message at 7.00 pm from Anil Kumar, room mate of the Petitioner saying that the son of the Petitioner has drowned in the water of Bhakhra Canal while he was taking bath along with Anil Kumar and other students. It was intimated that they were nine in number. After receiving the message on the same day, the Petitioner reached at Patiala and met the Principal of the College-Respondent No. 8 - Dr. Ashwani Kumar Sharma.

3. Learned Counsel for the Petitioner contended that he was handed over a silver ring with green stone, a copper ring, shirt and pajama of the son of the Petitioner. It was also submitted that after getting the aforesaid items, the Petitioner suspected foul play. It was further contended that although the above things were given to the Petitioner but no shoes of his son were handed over.

The college made arrangements of professional Divers from Haryana State. They also searched the canal but of no avail as body was not found. Thus, the story put forward by the Students is false. He further alleged that the son of the Petitioner has been killed by the Students who accompanied his son. DDR No. 19 dated 21.05.2009 was recorded on the statement of the Students. However, in spite of the best efforts to search his son, the Petitioner was not able to find his son. Accordingly, he represented to the Senior Superintendent of Police, Patiala vide his application dated 03.06.2009. The Petitioner also made representations to the various authorities including the Human Rights Commission, National Human Rights Commission, New Delhi as well as other authorities.

4. It was also contended that the photographs clearly show that by no stretch of imagination any one can take bath by the side of the canal as the water flows at a very high speed. The son of the Petitioner did not know swimming and, therefore, he could not have gone for swimming. The other students also did not know swimming. As such, the Petitioner's son and other students did not go to the Canal for taking bath. However, the recovery of the rings, shirt and pajama etc. shows that it was a pre-planned conspiracy. As such, it is not a case of drowning but of a murder. Therefore, the police is duty bound to register FIR in the present cas.

5. Reply has been filed by the State. As per the reply, complaint of the Petitioner addressed to the DIG, Patiala Rang, Patiala and the complaint addressed to Senior Superintendent of Police, Patiala were inquired into by the Superintendent of Police (D), Patiala, who submitted his report Annexure R1/T with the reply. The same reads as under:

On completion of enquiry, it has transpired that, S/Shri (1) Subin Saroa son of Kashmiri Lal (2) Munish Kumar son of Bachan Ram (3) Yadwinder Singh son of Mangal Singh (4) Aakash Rattan son of Shri Raj Rattan (5) Raj Kumar son of Shri Dev Raj (6) Kishore Negi son of Ram Chand Negi (7) Anil Kumar son of Shri Satpal Singh (8) Harvinder Singh alias Harry son of Anoop Singh (son of the complainant)(9) Naresh Kumar son of Shri Ram Dass are the students of Government Ayurvedic College, Patiala, these all students were residing in the College Hostels. On 21.05.2009 at about 3.00 p.m., all the students decided to take bath in Bhakra Canal, falling on the road from Patiala to Sangrur. They all proceeded to Bhakra Canal on their respective moor cycle and scooters. First they decided to take bath in the Bhakra Branch line but in the Branch line the water level was low and dirty, therefore, they left the view of taking bath in the Branch line and started taking bath in the main Bhakra canal. Munish Kumar, Raj Kumar, Kishore Negi and Subin Saroa who do not known swimming therefore, they sat on the edge of the Bhakra Canal. In the meantime, Harvinder Singh Harry and Naresh Kumar flowed in the speedy water, the other boys tried to save them but due to speedy water flow they drowned in the Bhakra Canal.

From the enquiry it has also transpired that the students present on the spot had immediately informed the College Administration, who further informed the

Senior Policy Officer and reached at the spot. The senior officers called the divers to trace the dead body of the Harvinder Singh Harry and Naresh Kumar but in vain. Inquiry from every student has been made but nothing come out. This incidents has taken place suddenly and naturally and there is no hand of any body. No action by the police is required on the complaint, therefore, it is recommended that the complaint be filed.

6. Reply of Dr. Ashwani Kumar Sharma, Principal, Government Ayurvedic College, Patiala has also been filed. As per the said reply, he was informed by the students at about 6.30 p.m. on phone about the sad tragedy. On inquiry, It was found by him that a total of nine students had left the college hostel at about 3.30 p.m. On 21.05.2009 without informing the warden or any other person for bathing in the Bhakra Main Line Canal. During bath, two of the students namely Naresh Kumar, a BAMS Internee and Harvinder Singh, a student of BAMS first year were reported to be drowned. The remaining students panicked and tried to locate both the drowned students and came back to college at about 6.30 p.m. Thereafter, the Principal of the College made call to the District authorities, the Secretary Medical Education and research, Punjab as well as the Minister of Medical Education and research, Punjab and informed about the details of the happening. The Superintendent of Police - Shri R.K. Sharma and SDM, Patiala Shri Gurmeet Singh reach the college within minutes and ordered for further action in the matter. Parents of both the drowned students were also informed. At about 10.00 pm, Shri Anoop Singh father of Harvinder Singh along with three persons came to the Principal. The children narrated the whole of the incident to the father of the drowned student Harvinder Singh in the present of number of College Faculty. Further, on 30.05. 2009, the Principal of the College along with some Faculty members and father of Naresh Kumar met the Deputy Commissioner, Patiala who ordered for engaging divers to locate the bodies. The divers reached the same day and searched the canal. The divers hired even by the parents also searched the canal till 02.06.2009 but could not locate the bodies. The search continued till 15 days but no body could be traced out.

7. As per the prosecution, there were total nine students of the Government Ayurvedic College, Patiala, who went together for taking bath in the Bhakra Main Canal Line. Harwinder Singh and Naresh Kumar drowned in the said Canal due to the high speed of the water. Other boys tried their best to save them but could not save them due to speedy water.

8. From the above, it is apparent that it was an unfortunate incident. However, no mala fide is alleged against the police or the investigating agency. There is no reason to disbelieve the inquiry conducted by the Superintendent of Police (D) Patiala that there is no foul play. In fact, all the other boys are the eye witnesses. The young boys took risk of taking bath in Bhakra Canal without assessing its consequence. The same has resulted in the said tragedy. In spite of continued search for 15 days, the bodies of the drowned students could not be traced out. What happened is very tragic but at the same time other seven boys cannot be

blamed for the same.

9. There is no doubt that it is very difficult for the family to accept the death of close one, especially when the deceased is your own child. At the same time, it would be unjust and improper to order registration of the FIR against the other innocent students who also accompanied the son of the Petitioner but somehow survived the fury of the water.

10. In view of the Inquiry report (R1) and the replies filed by the State and the Principal of the College-Respondent No. 8, no further order is required to be passed.

10. Dismissed accordingly.