
(2015) 01 P&H CK 0154

In the Punjab And Haryana At Chandigarh

Case No : CRM Nos. M. 37478 and M. 37648 of 2010

Roop Bali and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 27-01-2015

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 120-B, 302, 380, 457

Citation : (2015) 01 P&H CK 0154

Hon'ble Judges : Karam Chand Puri, J

Bench : Single Bench

Advocate : Balwinder Singh, for the Appellant; Gurinderjeet Singh, DAG,
Advocates for the Respondent

Judgement

Karam Chand Puri, J.—Roop Bali has filed petition under Section 482 of the Code of Criminal Procedure (in short - the Cr.P.C.) for transfer of investigation of FIR No. 55 dated 01-3-2009 registered under Section 302, 457, 380, 120-B IPC registered at Civil Lines, Patiala on the complaint of Brigadier Ram Raj Bali son-in-law of deceased couple to C.B.I.

2. The brief facts of the case are that case FIR No. 55 dated 01-3-2009 under Section 302, 457, 380, 120-B IPC was registered at Police Station Civil Lines, Patiala on the statement of complainant Brig. Ram Raj Bali (Retd.) recorded by SI Sukhminder Singh, SHO Civil Lines, Patiala. It is stated that he retired in the year 2006 from the Army as a Brigadier and presently working as Vice President with J.P. Plat Cement near Rewa and posted there. In the year 1976, he got married to Smt. Damanjeet Kaur daughter of Lt Col (rettd.) Surjeet Singh Sekhon resident of 18, Bhupindera road, near 22 number Phatak, Patiala. His mother-in-law Smt. Satwant Kaur and father-in-law Surjeet Singh Sekhon after retirement were staying at the above address. He had two brothers-in-law, the elder one Col. (Retd.) Sarabjeet Singh Sekhon and the younger Ranjiv Singh Sekhon. The elder brother-in-law Sarabjeet Singh Sekhon is missing from his house at

Zirakpur since 15th October, 2008 and the younger brother-in-law Ranjiv Singh Sekhon died due to illness in the year 2007. His sister-in-law Rattandeep Kaur Brar is married to Lt. Gen. Narinder Singh Brar and stayed at Delhi. His father-in-law Surjeet Singh Sekhon was suffering from paralysis for the past five years and could not move around or sit on his own. Today i.e. on 01.03.2009 at about 01.10 p.m. when he was in Delhi he was informed telephonically by his son Arjun Bali that his mother-in-law and father-in-law have been murdered being repeatedly hit on the head. Complainant along with his son, wife Daman Bali and sister-in-law Rattandeep Brar left for Patiala. On the phone he informed the police that no report should be registered till their arrival. On reaching Patiala he had seen the entire situation. He used to frequently speak to his mother-in-law and father-in-law and he fully suspected that his mother-in-law and father-in-law had been murdered at the behest of Manreet Singh Saini son of Davinder Singh Saini resident of House No. 25 Officer Colony, Patiala, who is the brother-in-law of his brother-in-law Sarabjeet Singh due to his greed for property because Manreet Singh had given his daughter for adoption to his sister Kamalpreet Kaur and due to his greed for property has killed them or got them killed. Kartar Singh resident of Rano near Payal and his family members had killed them or got them killed because his father-in-law had got registered some land in the name of Ajmer Singh, brother of Kartar Singh, whom he found reliable. After the death of Ajmer Singh, Kartar Singh and his family members wanted to forcibly occupy the land, situated in village Bapiana, District Mansa. Beside this, his father-in-law's driver Daljit Singh, who was privy to all family affairs could also have done such an act on his own or with the help of others due to greed. On the inquiries made by him till now he had found the Honda City Car bearing registration No. PB-31-B-0142 Silver Colour of his father-in-law along with some documents missing.

3. It is alleged that after killing of Col. Surjeet Singh Sekhon and his wife Satwant Kaur Sekhon, the murderers ransacked the entire house of the couple in search of certain important documents relating to the property belonging to them. A bloodstained handkerchief alongwith a stamp pad and a butcher knife were found outside the bedroom and a liquor bottle, alongwith a half full glass of liquor, was found lying on the dinning table. While leaving the house after committing the heinous act, the assailants also took away the Silver Colour Honda City Car bearing registration No. PB-31-B-0142 Silver Colour belonging to Lt. Col Surjeet Singh Sekhon, alongwith certain documents. The said vehicle was found abandoned after five days of the murder at a distance of 3 k.m., from his house in Patiala. The prime motive for murdering the old couple is apprehended to be some property dispute possibly within the family and specifically by those who could draw some benefit from the same as the murderer had not stolen any valuable things like cash or jewellery from the house but had instead ransacked the entire house in search of certain documents, which probably could relate to some property. It is alleged that the police is not investigating the matter properly and no finger prints have been taken either from the house or from the Honda City Car. It is alleged that period of two years (twenty two months from

the date of filing this petition) have elapsed but the Patiala Police has not been able to trace the murderers. So, prayer has been made for handing over the investigation to the CBI.

4. Rattan Deep Brar has filed another CRM No. M. 37478 of 2010 in which prayer has been made for issuing the directions to respondents No. 1 to 4 to investigate and report concerning the missing of Sarabjeet Singh Sekhon. It is alleged in that petition that Rattan Deep Brar is sister-in-law of Sarabjeet Singh Sekhon. Sarabjeet Singh Sekhon was married to Kamalpreet Kaur respondent No. 5 in that petition. Kamalpreet Kaur had a defiance behaviour with the family and Sarabjeet Singh Sekhon. Manpreet Singh Saini is the brother of Kamalpreet and was finding a way to grab the property of Col. Sarabjeet Singh and in order to grab the property, daughter of Manreet was illegally shown to be an adopted daughter. On 19.10.2008 Smt. Satwant Kaur made a report to the police wherein she had stated that she had suspicious regarding the factum of missing of Lt. Col. Sarabjeet Singh Sekhon against Kamalpreet Kaur and Manreet Saini, but no action was taken by the police. So, prayer has been made for referring the matter to CBI.

5. Again another complaint dated 06.11.2008 Annexure P-2 was made. On 1.3.2009 parents of Surjit Singh and Smt. Satwant Kaur were murdered when they were at their house in a brutal manner and FIR mentioned above was registered. It is submitted that whole of the family of Col. Sarabjit Singh has been eliminated in order to grab the property and the police is not taking any action.

6. Reply of the said applicant was called for and on 28.7.2011, this Court passed the following order:-

Present:- Mr. Anupam Gupta, Advocate and Mr. Rajiv Kataria, Advocate for the petitioner(s).

Mr. Rajni Gupta, Addl. A.G., Punjab.

In the reply filed by Daljeet Singh PPS, Deputy Superintendent of Police City-I, Patiala, all that has been stated is that no clue to the two murders could be found. One person namely Col. Sarabjit Singh has been missing.

Be that as it may, in the entire investigation report, it has been said that Manreet Singh, Kartar Singh and Daljit Singh-driver were arrested and interrogated, however, no clue could be found. The role of other persons was also investigated, however, no clue was found.

Before passing any final orders and before recording a finding that Punjab Police is unable to solve a crime, this Court considers it just and proper to have the entire investigation reviewed by a senior officer in Punjab Police. Accordingly, ADGP Intelligence is directed to go through the entire investigation and in case any aspect of the matter has not been properly investigated or an aspect of the matter has not been investigated, he would be at liberty to issue directions for

reinvestigation or further investigation after constituting his own team of investigation.

These orders are being passed in view of the fact that two lives were taken in a gruesome murder. The facts are made apparent from the photographs placed on record collectively as Annexure P-4.

Adjourned to 16.11.2011.

Let a copy of the order be placed on the other connected file.

28.07.2011 Shivani

Sd/- (AJAI LAMBA) JUDGE

7. There are two status reports called from time to time. This Court on 4.9.2012 passed the following order:-

"Present : Mr. Rajiv Kataria, Advocate for the petitioner.

Mr. K.D. Sachdeva, Addl. AG Punjab.

Mr. Jasjit Singh, Advocate for respondents No. 7 and 8.

Status report has been filed by the State mentioning that they are still trying their level best to solve this mystery of death of some persons namely Col. Sirjeet Singh Sekhon and Satwant Kaur Sekhon.

Learned State counsel seeks more time to investigate the matter.

Adjourned to 16.10.2012.

State is directed to file status report about the disappearance of Sarabjit Singh Sekhon, the brother of the petitioner also.

State is also directed to come out with some positive and concrete steps on the next date of hearing.

A copy of this order be placed on the file of connected petition.

04.09.2012 Shivani

Sd/- (Vijender Singh Malik) Judge

8. Zorawar Singh and Manreet Singh were stated to be interrogated but later on Zorawar Singh did not join the investigation and even on direction of this Court he did not appear. His application for grant of bail was dismissed up to Hon"ble Apex court. Vide order dated 18.9.2014, this Court has taken on record the status report and and it was ordered that affidavit of ADGP in clear terms as to whether State of Punjab has been able to solve the case or not, be filed positively by the next date of hearing. In Status report dated 21.1.2015 Shri Bupinderjeet Singh Virk, PPS, AIGP, Counter Intelligence, Patiala in his affidavit has mentioned that special investigation team has made Earnest endeavor to

process the case who were working on different theories and examined 79 persons. However, the offence was committed at night and no feasible clue was found in the crime. The members of the SIT are on and to take out brutal murder of an old couple. Reference has been made that investigation of the aforesaid case can only be made after the arrest of Zorawar Singh as he is the prime suspect in the murder of Col. Surjeet Singh Sekhon and his wife Satwant Kaur Sekhon.

9. Col. Sarabjeet Singh Sekhon is missing since 2008 and Col. Surjeet Singh Sekhon and his wife Satwant Kaur Sekhon, had been murdered on 01.03.2009.

10. Arguments regarding handing over the investigation to CBI has been heard at great length.

11. Counsel for the Kamalpreet and Manreet Singh have submitted that investigation has already been conducted and Manreet Singh has joined the investigation and has been later on got discharged and he cannot be put to investigation again.

12. Counsel for CBI has submitted that the parameters have been laid down in authority State of West Bengal and Others Vs. The Committee for Protection of Democratic Rights, West Bengal and Others, AIR 2010 SC 1476 : (2010) 2 JT 352 : (2010) 2 SCALE 467 : (2010) 3 SCC 571 : (2010) 3 SCR 979 : (2010) 2 UJ 1047 that rights should be kept in mind by this Court while exercising the power by the High Court for issuing direction to investigate the cognizable offence. It is submitted that no doubt, this Court has ample power to pass an order for investigation by the CBI but that order should be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility to and instill confidence in investigation 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 number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility.

13. Counsel for Manreet Singh has also relied upon the above said authority.

14. Counsel for the private respondent has also relied upon Division Bench authority of this Court in LPA No. 153 of 2008 titled as Bakshashi Ram and others vs. Satwant Singh Manak and others decided on 26.11.2003.

15. I have considered the submissions made by both the sides and have gone through the records of the case.

16. Sarabjeet Singh Sekhon is stated to be missing since October 2008 whereas Surjeet Singh Sekhon and his wife Satwant Kaur two persons have been murdered on 1.3.2009. This Court has directed the ADGP to investigate the matter so as to reach at a logical conclusion. SIT has also been formed under the supervision of Inspector General of Police, Patiala. However, on 21.1.2015

affidavit made by Bhupinderjeet Singh Virk, PPS, Assistant Inspector General of Police, Counter Intelligence Patiala clearly clinched the issue that police has not reached at a logical conclusion. This Court is conscious of the fact that the power to direct the investigation by the CBI should be exercised sparingly, cautiously and in exceptional situations but where the ends of justice requires, this Court should not hesitate to direct the CBI to investigate the case. It is a case of double murder and one person is missing and the allegations are that property dispute is the reason behind it. Whole the family has been wiped out and the Punjab Police has not reached at any logical conclusion in spite of the fact that matter is pending for the last so many years. The FIR was registered on 1.3.2009 i.e. about six years back but case remain unsolved till date. So, it is a fit case which falls within the parameters of authority State of West Bengal and others vs. Committee for Protection of Democratic Rights, West Bengal and others" case (supra) for issuing the directions to CBI to investigate the matter so as to reach at logical conclusion. The confidence of the public in the judicial system will erode considerably in case a double murder case is not solved. The allegations made in the petition are that police is not taking any action for the reasons best known to them. The investigation has been questioned by saying that finger prints have not been lifted.

17. So far as authority in LPA No. 153 of 2008 titled as Bakshashi Ram and others" case (supra) is concerned that authority is distinguishable as in that case, after observing the facts, the Division Bench of this Court reached to the conclusion that original petitioner filed the petition by his desires for personal gains in the form of monetary and medals awards etc. In the said case, a Constable of Punjab Police has invoked the provisions under Articles 226 and 227 of the Constitution of India by alleging that fake counters have been there but after appreciating the facts, the Court came to the conclusion that allegations are false on the fact of it and simply meant for person at gains. There is no such dispute in the present case. It is not the case of any one that false case has been registered. Two dead bodies with brutal injuries were found. One person is stating to be still missing since 2008.

18. So, in these circumstances, it is a fit case to invoke Articles 226 and 227 of the Constitution of India read with Section 482 of the Cr.P.C. to investigate the above said FIR No. 55 dated 01-3-2009 registered under Section 302, 457, 380, 120-B IPC registered at Civil Lines, Patiala in respect of murder of Surjeet Singh Sekhon resident of 18, Bhupindera road, near 22 No. Phatak, Patiala. His mother-in-law Smt. Satwant Kaur and in respect of missing of Sarabjeet Singh Sekhon. The CBI authorities are directed to investigate the case within four months from the date of taking into possession the Police file from the concerned police authorities and said authority shall make earnest efforts to reach at a logical conclusion as the matter has already been delayed. The Punjab Police is directed to hand over the case file to the CBI authorities at the earliest.

19. Report of CBI in this regard be submitted on or before 29.05.2015.

20. A copy of this order be conveyed to the concerned quarter for strict compliance.