

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

CWP-1038-2016

Date of decision: January 31, 2019.

KULDEEP SINGH

.... Petitioner

Versus

STATE OF HARYANA & ORS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Atul Lakhanpal, Sr. Advocate
with Mr. Arvind Pal Singh, Advocate
for the petitioner.

Mr. Sanjay Kumar Saini, AAG Haryana.

Mr. Sumeet Goel, Advocate
with Ms. Ramandeep Kaur, Advocate
for the respondent No.5.

JITENDRA CHAUHAN, J (ORAL)

The present writ petition under Articles 226/227 of the Constitution of India has been filed for issuance of a writ in the nature of mandamus directing respondent Nos. 1 to 4 to hand over the investigation of the case bearing FIR No. 91 dated 02.08.2009 registered under Sections 302 and 201 of IPC, at Police Station Sadar Jagadhri, District Yamuna Nagar.

Learned senior counsel for the petitioner contends that the occurrence took place on 25.07.2009, the police was duly informed on the same day by the brother of the complainant, but no action was taken by the police and the FIR was lodged on 02.08.2009 on the complaint filed by the complainant through registered post. The police had mentioned in DDR No. 13 entered on 25.07.2009 that no cognizable offence was made out. It is

asserted that in that case there was no necessity on the part of the police to go to the residence of accused Roor Singh and others on next date. Learned senior counsel further contends that the accused had not informed the family of the complainant or the police regarding drowning of Maninder Singh. No efforts were made by the police to locate the body of deceased-Maninder Singh. The complainant himself had hired divers for ten days at his own expense to search the body of Maninder Singh. On very day of occurrence i.e., on 25.07.2009, some unknown passer by had attended the phone of deceased-Maninder Singh when called by his wife from landline number and told that the mobile phone was lying at the seat of Kinetic Scooter in abandoned condition on Darwara Ghat of Yamuna Canal. As per the learned senior counsel, it is further inexplicable that on date of occurrence i.e. 25.07.2009 who had attended eight telephone calls which were made on phone of Maninder Singh and who had made these calls after alleged occurrence of drowning. Another mysterious circumstance pointed out by learned senior counsel is that on the date of occurrence accused Navjot Singh had made 81 calls with suspicious telephone number till midnight. On the date of occurrence locations of last two calls of Maninder were not at Darba Ghat of Yamuna river from where the phone was recovered by the police. However, location of these last two calls was at Aggarsain College chowk. It is questionable as to how the mobile phone was at Aggarsain college chowk when Maninder had drowned at Darba Ghat. Learned senior counsel further stated that a registered letter was sent by the complainant to Mr. Ajay Rana Investigating Officer for the purpose, to get the suspicious telephone call details made by accused Roor Singh

after midnight and from different locations till morning. Learned senior counsel posed a pointed query that the issue as to who had tampered with time in phone call details has not been investigated. According to learned senior counsel, the police has tried to destroy the evidence as the letter sent to Mr. Ajay Rana, Investigating Officer, is not available in the police record till date.

Reply as well as the report dated 29.01.2019 prepared by Deputy Superintendent of Police, HQ, Yamunanagar has been filed in the Court today. The same is taken on record as Mark 'A'.

Heard.

The Court feels that to do complete justice to the parties, further probe is required in the matter. Accordingly Sh. Sandeep Khirwar, presently posted as I.G. Rohtak Range, Rohtak is requested to conduct the investigation in the matter and a report in this regard be submitted expeditiously preferably within a period of four months from the date of receipt of certified copy of this judgment.

After the investigation, in case the grouse of the petitioner still survives, the petitioner shall be at liberty either to revive the present writ petition or to file afresh.

Disposed of accordingly.

(JITENDRA CHAUHAN)
JUDGE

January 31, 2019.

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No