

ITEM NO.41

Court 11 (Video Conferencing)

SECTION II-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (CrI.) No(s). 4311/2021

(Arising out of impugned final judgment and order dated 17-06-2021 in CRMM No. 23367/2021 passed by the High Court Of Punjab & Haryana At Chandigarh)

BHUPINDER SINGH

Petitioner(s)

VERSUS

THE STATE OF PUNJAB

Respondent(s)

(FOR ADMISSION and I.R. and IA No.69114/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENTMs. Jaspreet Gogia (Mb.9810359128), Advocate on behalf of State of Punjab)

Date : 18-06-2021 This petition was called on for hearing today.

CORAM : HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE M.R. SHAH
(VACATION BENCH)

For Petitioner(s) Ms. Ishma Randhawa, Adv.
Mr. Azmat Hayat Amanullah, AOR
Mr. Dhananjay Grover, Adv.
Mr. Nishant Awana, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

This Special Leave Petition is against an order dated 17-06-2021 passed by the High Court of Punjab and Haryana at Chandigarh, dismissing an application being CRM-M-23367-2021 filed by the Petitioner under Section 482 of the Criminal Procedure Code, 1973(Cr.P.C.), seeking directions on the Respondent-State of Punjab to get a second post-mortem examination conducted on the dead body of his son, late Jai Pal Singh Bhullar, at PGI, Chandigarh or any other independent medical institution. The Petitioner's son is

alleged to have been killed in a police encounter. There are serious issues of human rights involved. The petitioner alleges that his son had mercilessly been tortured to death under the guise of a fake encounter.

The High Court dismissed the said petition under Section 482 Cr.P.C., since the petitioner's son had died in Kolkata, West Bengal, outside the jurisdiction of the High Court of Punjab and Haryana and post-mortem had also been conducted by the Doctors of Kolkata, West Bengal. The High Court in effect found that the grievance of the petitioner was with regard to the mode and manner of conduct of the post-mortem examination, which took place in Kolkata by the Doctors of Kolkata.

There are, however, serious allegations against the Punjab Police in this case. The Punjab Police is alleged to have been involved in the alleged encounter in which the petitioner's son was killed. The dead body of the petitioner's son has been brought to Punjab and it presently lying in Punjab. The Punjab Police is in seisin of the case. The petitioner has alleged that the Punjab Police has resorted to manipulation of the post-mortem report.

Having regard to the issues raised by the petitioner, we are of the view that the High Court erred in dismissing the petition on the ground that the death had occurred in Kolkata, West Bengal and the post-mortem had been conducted in Kolkata, West Bengal.

The impugned order passed by the High Court of Punjab and Haryana is thus, set aside.

The High Court of Punjab and Haryana is requested to decide the petition filed by the petitioner on merits within Monday itself i.e. 21-06-2021.

In the meanwhile the State of Punjab shall make necessary arrangements for proper preservation and storage of the dead body.

The Special Leave Petition is, accordingly, disposed of.

Pending application(s), if any, stand disposed of.

(MANISH ISSRANI)
COURT MASTER(SH)

(MATHEW ABRAHAM)
COURT MASTER (NSH)