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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-23367-2021

Date of Decision: 21st June, 2021.

Bhupinder Singh

Petitioner

Versus

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. A.P.S. Randhawa, Advocate,
Mr. Hardik Ahluwalia, Advocate,
Mr. Dhananjay Grover, Advocate,
Ms. Ishma Randhawa, Advocate and
Mr. Simranjit Singh, Advocate for the petitioner.

Mr. Gaurav Garg Dhuriwala, Sr. Deputy Advocate General,
Punjab.

Mr. Amit Jhanji, Sr. Advocate (Panel Counsel) with
Mr. Abhishek Kumar Premi, Advocate
for the Post Graduate Institute of Medical Education &
Research, Chandigarh.

AVNEESH JHINGAN, J (Oral)

[1] The matter is taken up for hearing through video conference due to COVID-19 situation.

[2] The petition is filed under Section 482 Cr.P.C. seeking directions to the respondent to conduct the second post-mortem of son of the petitioner namely Jaipal Singh Bhullar.

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[3] The petition was earlier dismissed by this Court on 17th June, 2021. It was held that this Court had no jurisdiction as the post-mortem was conducted at Kolkata, West Bengal. An S.L.P. was filed and the Supreme Court on 18th June, 2021 set aside the order of this Court. The operational part is quoted below:-

“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 & 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.”

[4] Mr. A.P.S. Randhawa, learned counsel for the petitioner submits that body was handed over by the West Bengal authorities in the sealed box. While conducting the last rites, number of injuries were found on the body, he submits that let second post-mortem be conducted.

[5] A specific query was put to learned counsel for the petitioner as to whether the injuries visible on the body find mention

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in the post-mortem report ("P.M.R.") or not. He submits that P.M.R. is not with him, however, he has instructions that Doctor informed that cause of death was due to fire-arm injury. There is nothing in the pleadings to show that any attempt was made by the petitioner to get a copy of P.M.R.

[6] Mr. Gaurav Garg Dhuriwala, Sr. Deputy Advocate General, Punjab vehemently opposes the pleadings in paragraph-2 of the petition to the effect that son of the petitioner was killed on 9th June, 2021 in an encounter by Punjab Police. He further submits that the Punjab Police was not involved in any of the alleged encounter, all the action was of the West Bengal authorities. The post-mortem was conducted on 10th June, 2021 and body was handed over to the petitioner on 12th June, 2021 and since then it is in possession of the family. The State has only preserved the body by sending Freezer in compliance with the directions of the Supreme Court. The petitioner refused to take body to the mortuary or hospital, it was in those circumstances, the Freezer was sent for preserving the body. He seeks time to file an affidavit to the said effect.

[7] Considering that the directions of the Supreme Court are to decide the matter today itself, the request of learned State counsel to file the affidavit is declined. However, his contentions are noted.

[8] In the petition, the prayer is for conducting second post-mortem. It would be apt to note at this stage that in absence of earlier P.M.R., there is no substantial ground pleaded in the petition for

conducting second post-mortem. Apart from the bald statement, there are no allegations which have been substantiated with regard to mode and manner of conducting post-mortem at Kolkata.

[9] However, learned State counsel could not raise any serious objection with regard to conducting second post-mortem. He submits that West Bengal Police would be the affected party.

[10] It is clarified that while deciding this petition, this Court is not opining or commenting upon the facts pleaded with regard to the encounter of son of the petitioner. Only the prayer for second post-mortem is being dealt with. The petitioner would be at liberty to avail remedies available in law for redressal of grievances, if any.

[11] In normal circumstances, it would have been appropriate to hear the West Bengal authorities but considering that time is the essence and in view of direction by the Supreme Court, the petition is being decided today itself.

[12] Ignoring the technicalities, considering the nature of relief sought, noting the fact that body of son of the petitioner is lying at his place for almost nine days and rejection of prayer of the petitioner at this stage may result in irreversible damage by not conducting the second post-mortem, the Post Graduate Institute of Medical Education & Research, Chandigarh (PGIMER) is directed to constitute a Board and conduct second post-mortem expeditiously.

[13] Considering the urgency in the matter, Mr. Amit Jhanji, Senior Advocate, Panel Counsel for the PGIMER, Chandigarh was

informed about the case. He has put in appearance for the PGIMER, Chandigarh and has ensured that needful would be done by the PGIMER, Chandigarh for compliance of the directions of this Court. He submits that body be brought to mortuary of PGIMER, Chandigarh on 22nd June, 2021 at 10:00 A.M.

[14] Learned counsel for the petitioner submits that petitioner is not ready to hand over body to the police, he will himself bring the body to PGIMER, Chandigarh.

[15] Let the petitioner hand over the body of his son to PGIMER, Chandigarh on 22nd June, 2021 at 10:00 A.M. for conducting the second post-mortem.

[16] Copies of P.M.R. be given to the petitioner, Punjab Police and other authorities concerned.

[17] The petition is disposed of.

21st June, 2021
pankaj baweja

- 1. Whether speaking/ reasoned
- 2. Whether reportable

[AVNEESH JHINGAN]
JUDGE

: Yes
: Yes