

Meena Vs. State and ors.

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Court : Delhi

Decided On : Feb-06-2006

Reported in : 127(2006)DLT522; 2006(87)DRJ262

Judge : R.C. Jain, J.

Acts : Juvenile of Justice Act; Code of Criminal Procedure (CrPC) - Sections 482; Indian Penal Code (IPC) - Sections 302; [Constitution of India](#) - Article 226

Appeal No. : W.P. (Crl) 203/2004

Appellant : Meena

Respondent : State and ors.

Advocate for Def. : Mukta Gupta, Standing Counsel and ; Rajdipa Behura, Adv.

Advocate for Pet/Ap. : Kishore Kumar, Adv

Judgement :

R.C. Jain, J.

1. Through this petition under Article 226 of the [Constitution of India](#) read with Section 482 Cr.P.C., the petitioner has prayed for a writ/direction on the respondents i.e. Police authorities to register a proper case against all the accused persons involved in the murder/conspiracy and destroying evidence in relation to

the murder of her son Vikas and for handing over the investigation of the case to the CBI or some other impartial agency for further investigation.

2. Briefly stating the petition has been filed with the averments and allegations that the petitioner is the unfortunate mother of a young boy named Vikas aged about 15 years who use to work at Bindi factory of a certain Ram Lal Gupta in order to earn livelihood for the family. Ram Lal Gupta has a grand daughter Jyoti of the same age as Vikas. Vikas and Jyoti developed a somewhat emotional attachment for each other which was not liked by Ram Lal Gupta and, thereforee he held a grudge against Vikas. The petitioner suspects that her son has been killed by some persons pursuant to a conspiracy hatched between Ram Lal Gupta and others. According to the petitioner Vijay a fellow worker who was working in the same Bindi factory has been made a scapegoat and real culprits have been left out.

3. Notice was issued to the respondents and a status report was filed which has confirmed the murder of Vikas sometimes late in the evening of 31.10.2003, his body having being recovered from near Railway track with injuries. After necessary investigation, the police submitted a charge-sheet under Section 302 IPC against Vijay before Juvenile Court, Vijay being Juvenile within the meaning of Juvenile of Justice Act. Report rules out the involvement of any other person in the commission of offence of murder of Vikas.

4. Learned counsel representing the petitioner on the basis of probabilities and material brought on record during the course of investigation more particularly the presence of two injuries on the body of the deceased Vikas and the further opinion of the Doctor has strongly urged that at least two persons were involved in the commission of offence because two different weapons of offence have been used in the commission of offence. The injuries recorded by the Doctor are as under:

1. Incised penetrating wound of size 5.5 x 3.5 cm x placed transversally over mid line front lower chest about 16cm below suprasternal notch and 15.5 cm above the umbilicus just over xiphisternal area. Lt. angle of the wound is very acute while Rt angle is acute with slight broad area. Prma-facia, the direction of the wound is slightly above downwards.

2. Incised penetrating wound 3cm x 1cm x? place obliquely and vertical over Lt side back of chest about 2.2cm Lt to mid line back & 14.5. cm below lower margin of neck lower angle is sharply acute and upper angle is acute but slightly less of compare to lower one. Direction of the wound is from below upwards. Multiple irregular placed centre abrasion scattered all over Lt side chest and abdomen, Lt lateral chest and abdomen and Left side back of chest and abdomen.

3. Abrasion 2x1 cm near Rt.lateral centers.

4. Margin of Rt. lower eye lid shows contusion and conversion.

5. M. abrasion over both knee joints and Lt. leg out place. All abrasion and bruises are reddish and brown in colour.

The report of the doctor in regard to the weapon used in the commission of offence is as under:

The injury No. 1. mentioned in PM report No. 1858 dated 2.11.2003 on the body of Vikas s/o Ganesh is possible by thin weapon or by similar such type of weapon. The weapon is resealed (only the police seal) with the seal of KLS and handed over to I.O. SI Malvipal singh P.s. Railway Station, Rohilla. Injury No. 2 is not possible by thin weapon.

5. On the other hand learned standing counsel for the State has pointed out that the investigation in this case has been conducted on proper lines and in an impartial manner and since involvement of Vijay alone was established so he has been prosecuted.

6. This Court having considered the matter in its entirety and having regard to the facts and circumstances of the case as averred and more particularly keeping in view the number, nature and extent of injuries found on the body of Vikas and the opinion rendered by the Doctor in regard to the weapon(s) used is prima facie of the opinion that there was something more in the case besides what has been projected by the investigating agency about the manner in which and the reasons for which the Vikas was murdered. The investigation conducted by the local police does not inspire confidence. Though on the face of the material collected by the

police, Vijay is facing trial before the Juvenile Court yet with a view to bring truth to surface and to rule out any lurking doubt which might persist in the mind of the petitioner who is none else except the mother of the deceased, this Court is of the opinion that it is a fit case where further investigation is called for by an independent agency.

7. Accordingly the petition is allowed and CBI is directed to taken up further investigation into this case. Director, C.B.I. is called upon to entrust further investigation of this case to an officer not below the rank of Deputy Superintendent of Police in the C.B.I. and to complete the investigation expeditiously. Copy of the order and relevant papers be forwarded to the Director-CBI for necessary action. The Local Police shall render the requisite assistance to the CBI in that behalf.

8. The petition stands disposed of accordingly.

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