

201 **CRR 509-2024 in/and CRM-11458-2024**
KULJIT KAUR AND ORS VS STATE OF PUNJAB AND ANR

Present:- Mr. Arnav Sood, Advocate
 for the petitioners.
 Mr. I.P.S. Sabharwal, DAG, Punjab.
 None for respondent No. 2.

I have heard the case at length.

During the course of arguments, learned counsel for the petitioners has pointed out that as per the report dated 21.01.2023, the doctors could not declare the cause of death in the present case.

It is apparent from the medical record/postmortem report (Annexure P-2) that Ravinder Singh, since deceased, was a young well built boy aged 24 years and had suffered the following injuries:-

“(i) Abrasion with scab formation 2 X 1 cm with healing at periphery, on left side of chest.

(ii) Wound with scab formation 2 X 1 cm with healing periphery, on posterior aspect of mid right forearm”.

It was stated in the postmortem report that cause of death shall be given after the receipt of the chemical examiner report. However, surprisingly, after the receipt of chemical examiner report, it has been mentioned that the injuries suffered by the deceased were neither grievous nor life threatening and the cause of death could not be declared in the present case. It clearly shows that the postmortem examination was done in a very casual manner and due to the said fact, even the investigation could not be conducted properly in the present case. Even this Court has noticed in several cases that the investigation could not be conducted in criminal

matters, in absence of proper medical evidence. Thus, not only the victim of crime suffers, but the accused is also deprived of a fair trial. This case is one of the most conspicuous example of gross negligence on the part of the doctors of the medical board.

In fact, the postmortem reports/MLRs are very crucial to decide the cause of death, the injuries found on the body and to determine as to whether any poisoning was there or not. It is one of the most vital piece of evidence for criminal justice delivery system. The evidence of doctor based on medico legal report/postmortem report is the foundation of criminal trial, where injuries have been caused to some person, suicides, cases of poisoning etc. Even the Courts formally place huge reliance on such witnesses, as they are the experts in their field and based on their evidence only, the criminal trial are decided. Consequently, this Court is conscious of the importance of medical evidence in the disposal of criminal trial by the Courts at different levels. However, sadly nowadays, it has been noticed and it is a matter of common knowledge that the dissection of the body is being done by persons other than Doctors/Forensic Experts in mortuary room. Due to this, the postmortem reports do not accurately reflect the findings as found on the body. Not only this, in several medical colleges, the postmortems are conducted by the students, who are less experienced and the dissection is performed unscientifically without following the scientific methods. Some times, even the forensic experts/senior doctors do not attend the process of conducting the

postmortem and the postmortem reports are prepared in routine. Apart from that, in few cases, at a later stage, the medical opinions are changed during the course of trial and in absence of proper videography or photographs doubts are raised with regard to the contents of the postmortem reports.

Before proceeding any further, to lay down the procedure with regard to the conducting of postmortem examinations, which may be followed by the doctors/forensic experts, it would be appropriate to implead the Secretaries, Department of Health and Family Welfare of the State of Punjab, Haryana, Union Territory of Chandigarh as respondents Nos. 3 to 5, respectively. The Registry of this Court is directed to carry out necessary corrections in the memo of parties in this regard.

Respondents No. 3 to 5 may also file their respective affidavits on or before the next date of hearing.

Ms. Aiman Jamal Chishti, Advocate (D-10816/2019, M.No. 9582532809) and Mr. K.P.S. Virk, Advocate (P-722/2013/9815585674) who are present in the Court, are appointed as Amicus Curiae, to assist the Court. Their fees is to be assessed and paid by the High Court Legal Services Authority as per rules and practices.

The appointment of Amicus Curiae shall be governed by the relevant Rules, and, instructions.

List on 27.09.2024.

Registry is directed to supply a complete set of paper book as well as copy of the order to the Amicus Curiae.

A copy of this order be handed over to Mr. I.P.S. Sabharwal, DAG, Punjab, Ms. Sheenu Sura, DAG, Haryana and Mr. Manish Bansal, Public Prosecutor for U.T., Chandigarh under the signatures of the Bench Secretary of this Court for compliance.

02.09.2024

amit rana

(N.S.SHEKHAWAT)
JUDGE