

Bhagwant Singh

Vs

Commissioner of Police, Delhi

Writ Petition No. 6607 of 1981

(P. N. Bhagwati, R. S. Pathak JJ)

06.05.1983

JUDGMENT

PATHAK, J.-

1. The petitioner, Shri Bhagwant Singh, has applied to this court for relief in the matter of the death of his married daughter, Gurinder Kaur.

2. Shri Bhagwant Singh is a member of the Indian Revenue Service. His daughter, Gurinder Kaur, was one of three children. She was an intelligent and talented girl who secured a first division in the Senior Cambridge Examination and had obtained a B. Sc. (Home Science) degree from Lady Irwin College. She was endowed with good looks and a pleasing personality, and her education and deportment attracted notice. It is apparent that the father was proud of his daughter.

3. Shri Bhagwant Singh and Shri Kartar Singh were colleagues in the office. They had been friends for over 30 years. Shri Kartar Singh has a son, Amarjit Singh. The family lived at J-7/93, Rajouri Garden, New Delhi. The son ran a motor parts shop at Kashmere Gate, Delhi. It appears that the two colleagues decided on a marriage between Gurinder Kaur and Amarjit Singh in view of the close association of the two families.

4. From the very beginning, it seems, Shri Bhagwant Singh was opposed to the evils of the dowry system, and the sentiment was also deeply entrenched in Gurinder kaur for, it appears, she along with other girls of her college signed a pledge in favour of the "anti-dowry movement". According to Shri Bhagwant Singh, there was an express stipulation between the respective parents that no dowry would be demanded in the marriage. The marriage started off well and the young couple enjoyed a harmonious relationship for the first few months. But very soon, it is alleged, Gurinder Kaur became conscious of broad hints from her mother-in-law that gifts in the shape of money and jewellery were expected from her parents. Shri Bhagwant Singh, on being informed of this, decided to ignore it, firm in his conviction that any insidious attempt to extract a dowry should not be countenanced. It is alleged that from this point Gurinder Kaur became the victim of constant ill treatment by her mother-in-law. She was carrying a baby, but amidst the oppressive tensions at home she suffered a miscarriage and was admitted to a nursing home.

5. According to Shri Bhagwant Singh, his daughter continued to be ill treated and was often taunted that unless she observed the family tradition of presenting a necklace to her mother-in-law she would remain without child. It is said that the pressure on Gurinder Kaur continued unabated, and it was not long before her husband got it conveyed to Shri Bhagwant Singh that he required about Rs 50,000 for financing his business. As Shri Bhagwant Singh remained firm in his resolve not to yield

to these pressures, it is alleged that the girl continued to be harassed and her parents-in-law made it plain to her that they regretted the marriage. The attitude and relations of her husband and his family towards her went from bad to worse, and the regard which ordinarily a bride in the house can expect to receive was replaced by a continuing scorn and contempt and ill will. It must be recalled that Gurinder Kaur was a girl of good family, of refined character and well educated. Brought up in a home where the dowry system was regarded as an evil to be opposed, it can be presumed that she rebelled strongly against the attempts at extortion directed against her father. It is reasonable to assume that the relations between the young husband and wife were vitiated by bitter discord, and that she lived in the home in an atmosphere of open and continuous hostility.

6. On August 9, 1980, 10 months after the marriage, Gurinder Kaur, aged 22 years was found dead of third-degree burns from a kerosene fire in the bathroom. According to the family of Kartar Singh, all the members of the family had proceeded to the Gurudwara Bangla Sahib in the early morning, and on their return the girl had prepared breakfast for the eight members of the family. She and her husband ate breakfast later and, it is said, the husband left for work at about 10.30 a.m. Within an hour thereafter, the girl was found dead in the bathroom. The tragedy occasioned universal distress, and on the versions put out by the newspapers agitated letters condemning the dowry system and calling for urgent legislative and social measures for reform poured into the press. The police authorities, it seems, tend to believe that the case was one of suicide, but Shri Bhagwant Singh is convinced that murder cannot be ruled out.

7. It is not possible in this case, nor indeed would it be right for us to do so, to enter into the question whether Gurinder Kaur committed suicide or was murdered. That is a matter which is properly involved in the trial of a criminal charge by a court possessing jurisdiction. We are concerned here only with an examination of the question whether, after being informed of Gurinder Kaur's death, the police authorities conducted themselves as law and justice required of them. A counter-affidavit of October 1981 of Shri P. S. Bhinder, Commissioner of Police, Delhi states that Gurinder Kaur was admitted in the Ram Manohar Lohia Hospital on August 9, 1980 at 12.15 p.m. that Gurinder Kaur was unfit to make a statement. His enquiries led him to believe that Gurinder Kaur had attempted to commit suicide. He registered the case as F. I. R. No. 507 dated August 9, 1980 under Section 309 of the Indian Penal Code and commenced investigation. At 8.15 p.m. on the same day Gurinder Kaur died. The police investigation brought to light that Gurinder Kaur was found burning at about 11 a.m. on August 9, 1980 in the bathroom of the first floor of the houses. The police say that the bathroom was found bolted from inside, and it was broken open by a servant, Ramu, with the assistance of Smt. Satinder Kaur, the elder daughter-in-law. After the fire was extinguished, Gurinder Kaur was removed to the hospital. It is said that a tin can of five liters of kerosene, two match-boxes and one looking-glass with the words "Do not hold anyone responsible - Pinkly" written on its surface with a soap cake were found. The Central Forensic Science Laboratory experts summoned for the purpose were of opinion that the writing on the mirror was that of Gurinder kaur. It was also side that the door of the bathroom could have been broken open from outside.

8. When Shri Bhagwant Singh complained about the manner in which the police investigation was proceeding and expressed his suspicions in regard to the circumstances in which his daughter died, the police added Section 4 of the Dowry Prohibition Act to the charge on November 29, 1980. Subsequently, on May 15, 1981 reference to Section 306 of the Indian Penal Code was also included. The police continued their investigation until August 29, 1981, and from the investigation they inferred that it was a case of suicide. It seems that thereafter the investigation was entrusted by the Minister of State for Home Affairs in the Government of India to the Central Bureau of

Investigation, and the file was sent to its Director on September 10, 1981. For that reason, it is said, no question arose of filing any report under Section 173 (2) of the Code of Criminal Procedure.

9. Shri Bhagwant Singh has vigorously contended that the investigating agency in this case did not carry out its statutory duties in a bona fide manner and deliberately withheld the filing of a police report and resorted to delaying the progress of the investigation in order to ensure that no proceedings were taken against the accused in the case. He disputes the version of the police that the doctor on duty at the hospital had said that Gurinder Kaur was unfit to make a statement and that it was not possible for the police to obtain her statement before her death. He has referred to the statement of Shri Kartar Singh Sawhney, the father-in-law of the girl, made to the police on November 13, 1980, in which he had disclosed that Shri Bhagwant Singh had come to the hospital and he found that his daughter was talking occasionally, and that during the period from 2.30 p.m. to 8.30 p.m. Shri Bhagwant Singh, his wife, his niece, who was a doctor, and his elder brother Balwant Singh, as well as the latter's wife and two sons, had been talking to the girl. In his affidavit Shri Bhagwant Singh also alludes to the statement of Smt. Satinder Kaur recorded by the police on August 9, 1980 where she stated that and that time of the tragedy she rushed upstairs and fainted and that when she regained consciousness many people in such stated that at the time of the tragedy she rushed upstairs and fainted and that when she regained consciousness many people including her farther-in-law, mother-in-law and brother-in-law, Raman Deep Singh who lived on the second floor were present. It is pointed out that if this statement is true, then it is not possible to accept the version put forward by the family of Shri Kartar Singh that the servant, Ramu, with the assistance of Smt. Satinder Kaur had to break open the door of the bathroom because it was bolted from inside. It is also pointed out that the servant Ramu and Smt. Satinder Kaur were alleged to be on the ground floor when the burning took place in the bathroom on the first floor of the houses where the mother-in-law, Gurbachan kaur, was present. Gurbachan Kaur, according to her statement, was ironing clothes at that moment on the first floor, a few yards away from he bathroom and would have been the first person to have witnessed the tragedy and yet, it is questioned, there is no reason why she should not have been the first to assist the servant Ramu in breaking open the door if indeed the door had to be broken open. It is also alleged that the police never attempted to take into possession the cake of soap in the bathroom with which the deceased is supposed to have written on the looking-glass, nor did they take possession of the blanket, which, according to the statement of Shri Kartar Singh Sawhney, was employed to extinguish the fire. Several suspicious circumstances have been set forth by Shri Bhagwant Singh in his affidavit, and the opinion of the C. F. S. L. experts has been assailed on the ground that it was delivered on an examination of the mirror after more than a month. He has also attempted to rebut the assertion of the police that he did not join in the investigation from the outset and that he had originally said that he did not suspect any foul play. On the contrary, he has dwelt at some length on the continuous attempts made by him to ensure an effective investigation into the cause of his daughter's death, approaching in this behalf the highest authorities in the land.

10. When this case came before this court, an order was made directing the filing of a detailed affidavit by the Commissioner of Police setting forth full particulars of the various steps taken by the police in connection with the investigation. A further counter-affidavit was filed by Shri P. S. Bhinder, Commissioner of Police. It is stated in the counter-affidavit that the investigating officer remained busy with the investigation of other cases and with matters concerning the maintenance of law and order, and that this particular case was with Sub-Inspector Amrit Lal, who has 12 cases in hand, from August 9, 1980 to August 11, 1980, and thereafter was entrusted to Sub-Inspector Sri Ram, who had 29 case sin hand, from August 12, 1980 to November 13, 1980, and subsequently to Inspector Charan Das, who had only one case in hand, from November 13, 1980 to May 28, 1981. It

is stated that these police officers "could not investigate this case all the time" because besides the other cases in hand, they had also to look after the day-to-day work of the police station. It is said also that during the period when the case was under investigation with Inspector Charan Das, the file remained under sub-mission to the Crime Branch of Delhi for scrutiny with a view to guide the local police on further investigation. Finally, the case passed into the hands of Inspector R. P. Kochhar of the Crime Branch, who had for cases in hand, and he dealt with this case from May 28, 1981 to September 18, 1981. It is pointed out that Inspector Kochhar was at that time entrusted also with the investigation of a number of cases involving a notorious dacoit as well as two sensational murders. It is reiterated in the counter-affidavit that the statement of Gurinder Kaur could not be recorded by the police as the doctor on duty had declared her unfit to make a statement. It is admitted that the blanket with which the fire was extinguished was not taken into possession by the police, but it is asserted that the soap cake was taken on August 9, 1980. It is also asserted that on August 10, 1980 Sub-Inspector Amrit Lal Brought a team of C. F. S. L. experts to the place of occurrence and a photograph of the mirror was taken. It is alleged that although every effort was made to record the statement of Shri Bhagwant Singh, he declined to make any statement. It was only on April 21, 1981 that he did so. It is conceded that reference to Section 306 of the Indian Penal Code was added only on May 15, 1981, the omission to do so earlier being explained as a mistake. The delay occasioned in the investigation is ascribed by the Commissioner of Police to the fact that Shri Bhagwant Singh permitted his statement to be recorded only as late as April 21, 1981.

11. We think it can be fairly stated that the police did not display the promptitude and efficiency which the investigation of the case required. There is much that calls for comment. It appears from the entries in the police case diary that a Sub-Inspector visited the place of occurrence on August 9, 1980 and seized a number of articles. But it is conceded that he did not take into custody the blanket with which the fire is said to have been put out. On the next day, experts from the Central Forensic Science Laboratory visited the place and appear to have made an examination for chance prints. They also photographed the mirror. And yet, it was not until over five weeks later that the police were able to obtain a report from them. Curiously, although the mirror was removed from the scene of occurrence and was examined for chance prints, no "identifiable prints" could be developed. In cases such as this, it would have been of the essence that on visiting the place of occurrence immediately on information of the incident, the mirror should have been taken into possession by the police and handed over forthwith to the Central Forensic Science Laboratory experts for an urgent report in regard to the existence and identification of the prints. Delay in such a matter is vital and can often result in the loss of valuable clues. It is of little consolation that, according to the entry C. D. No. 7 dated September 23, 1980 the Deputy Commissioner of Police wrote a reminder to the Director, Central Forensic Science Laboratory for an urgent examination of the writing.

12. An important question was whether the bathroom door was latched from inside and had to be forced open, or was in fact latched from outside. According to the family of Shri Kartar Singh, the door was forced open with the help of the servant Ramu. The entry C. D. No. 1 dated August 9, 1980 in the case diary does not indicate that Ramu's statement was recorded by the police on that day, although it shows that the statements of other persons were recorded on that very day, but that is not shown by the case diary extracts filed before us. It is only as late as January 25, 1981, according to the entry C. D. No. 13 of that date, that the servant was examined by the Station House Officer. Ramu was a material witness, and yet strangely, as it appears from the entries in the police case diary, he was allowed to leave the town and go to his village before he could be fully examined by the police. There is no evidence that the police expressed any anxiety to put him through a thorough examination immediately or shortly after the date of the occurrence or at least before Shri Kartar Singh's family allowed Ramu to leave the town for his village.

13. Much has been made by the police of the reluctance of Shri Bhagwant Singh to make a statement to them. As a responsible officer of sufficiently senior status in the Government of India it would have been natural to expect that he would have come forward from the very first to have his statement recorded and to cooperate with the police, especially in view of the fact that he would have been particularly anxious to have the truth determined into the death of his own daughter. It is indeed difficult to believe that he did not cooperate with the police in the investigation or declined to give his statement until April 21, 1981. But if he did so, it could only be because of want of confidence in the manner in which the police investigation was being conducted.

14. The most vital evidence would have been the statement of Gurinder Kaur herself, and yet even on that point there is a conflict of testimony on the question whether she was fit to make a statement at 3.10 p. m when the Sub-Inspector approached the doctor for the purpose. On the other hand, according to the statement made by her father-in-law, Shri Kartar Singh, himself to the police on November 13, 1980, when her father Shri Bhagwant Singh came to the hospital and entered the room, the girl was talking occasionally, and during the period 2.30 p.m. to 8.30 p.m. Shri Bhagwant Singh, his wife, his niece who was a doctor and other members of his family had been talking to the girl. According to the statement of Dr. Rajinder Pal Kaur, niece of Shri Bhagwant Singh, Gurinder Kaur suggested to one of the police officers, who was present, to record the statement of the girl, he declined to do so. It is regrettable that there is a conflict on the question whether the girl was fit to make a statement to the police, and we are constrained to point out that the conflict centres on a vital part of the case.

15. There are other features of the case, including the question of the transfer of a television set to the family of Shri Kartar Sing as a palliative by the police does not inspire confidence. It was, in fact, considered materially inadequate by the Crime Branch itself. For on May 12, 1981 a memorandum was addressed by the Crime Branch to the Deputy Commissioner of Police, Delhi pointing out that the file showed that statements of material persons had not been recorded. We may also advert to the fact that although the girl was taken to the hospital in a taxi, the police do not appear to have attached any importance to recording the statement of the taxi driver. There is also an affidavit of one Shri Jagjit Singh before us from which it appears that he was among the first to reach the house when the incident occurred and that it was he who suggested that the girl, who was lying burnt half inside the bathroom and half outside in the verandah, should be taken forthwith to the hospital, and he states that it was he who has instrumental in sending for the taxi. Shri Jagjit Singh was an important witness, and although he was in the neighbourhood, no attempt was made to record his statement expeditiously.

16. Two inferences follow irresistibly from the material before us. One is that the investigation by the police following the occurrence was desultory and lackadaisical, and showed want of appreciation of the emergent need to get at the truth of the case. There is a powerful suggestion made by learned counsel for Shri Bhagwant Singh that the police were anxious not to embarrass Shri Kartar Singh and his family and may indeed, as it were, have looked the other way instead of vigorously pursuing the investigation. Whatever may be the reason, there is no doubt that the investigation of the case suffered from casualness, lack of incisiveness and unreasonable dilatoriness, and this is demonstrated most effectively by the manner in which the case was passed from one police official to another, being entrusted successively to Sub-Inspectors and Inspectors each of whom already had his hands full with the investigation of several other case. There is the admission that these police officers were preoccupied with numerous other cases in their hands and they were officers who were also required to look after the day-to-day work of the police station. It was only when on the repeated and insistent petitions of Shri Bhagwant Singh the case passed into

the control of the Crime Branch that the investigation showed some signs of being speeded up.

17. The other inference which disturbs us is that the entries in the police case diary (set forth in the annexure to the counter affidavit on the record) do not appear to have been entered with the scrupulous completeness and efficiency which the law requires of such a document. The haphazard maintenance of a document of that status not only does no credit to those responsible for maintaining it but defeats the very purpose for which it is required to be maintained. We think it to be of the utmost importance that the entries in a police case diary should be made with promptness, in sufficient detail, mentioning all significant facts, in careful chronological order and with complete objectivity.

18. We believe it would be appropriate to make a few further observations at this stage. It is impossible to escape the conclusion that, in a case such as this, the death of a young wife must be attributed either to the commission of a crime or to the fact that, mentally tortured by the suffocating circumstances surrounding her, she committed suicide. Young women of education, intelligence and character do not set fire to themselves to welcome the embrace of death unless provoked and compelled to that desperate step by the intolerance of their misery. It is pertinent to note that such cases evidence a deep-seated malady in our social order. The greed for dowry, and indeed the dowry system as an institution, calls for the severest condemnation. It is evident that legislative measures such as the Dowry Prohibition Act have not met with the success for which they were designed. Perhaps, legislation in itself cannot succeed in stamping out such an evil, and the solution must ultimately be found in the conscience and will of the social community and in its active expression through legal and constitutional methods.

19. Besides this, what is important to point out is that where the death in such cases is due to a crime, the perpetrators of the crime not infrequently escape from the nemesis of the law because of inadequate police investigation. It would be of considerable assistance if an appropriately high priority was given to the expeditious investigation of such cases, if a special magisterial machinery was created for the purpose of the prompt investigation of such incidents, and efficient investigative techniques and procedures were adopted taking into account the peculiar features of such cases. Among other suggestions, we would recommend that a female police officer of sufficient rank and status in the police force should be associated with the investigation from its very inception. There are evident advantages in that. In a case where a wife dies in suspicious circumstances in the husband's home it is invariably a matter of considerable difficulty to ascertain the precise circumstances in which the incident occurred. As the incident takes place in the home of the husband, the material witnesses are usually the husband and his parents or other relations of the husband staying with him. Whether it was cooking at the kitchen stove which was responsible for the accident or, according to the inmates of the house, there was an inexplicable urge to suicide or whether indeed the young wife was the victim of a planned murder are matters closely involving the intimate knowledge of a woman's daily existence.

20. If the incident is the result of a crime by the husband or his family, the problem of ascertaining the truth is burdened by the privacy in which the incident occurred. In circumstances where it is possible to record the dying declaration of the victim, it would, in our opinion, be more conducive to securing the truth if the victim made the declaration in the presence of a female police officer who can be expected to inspire confidence in the victim. Psychological factors play their part, and their role cannot be ignored. A young wife can be the subject of varying psychological pressures, and because that is so the nuances of feminine psychology support the need for including a female police officer as part of the investigating force. While making these observations we may emphasise

that we intend no aspersion on the rectitude or efficiency of the male members of the police involved in the investigation of such cases.

21. Another suggestion which has found favour with us is the need to extend the application of the Coroners' Act, 1871 to other cities besides those where it operates already. The application of the Coroners' Act will make possible an immediate enquiry into the death of the victim. Whether it has been caused by accident, homicide, suicide or suddenly by means unknown. It contains provisions which are entirely salutary for the purpose of such enquiry, and we have little doubt that an enquiry under that enactment would be more meaningful and effective and complete in the kind of case before us. We are aware that the Code of Criminal Procedure, 1973 contains, in Sections 174 and 175, provision for a police enquiry pursuant to an information that a person has committed suicide or has been killed by another or by an animal or by machinery or by an accident or has died under circumstances raising reasonable suspicion that some other person has committed an offence. In such a case the police officer makes an investigation and submits a report to the District Magistrate or the Sub-Divisional Magistrate, and thereafter the District Magistrate or Sub-Divisional Magistrate or other Executive Magistrate empowered in that behalf is required to hold an inquest. The police officer making an investigation is entitled to summon two or more persons for the purpose of the investigation and any other person who appears to be acquainted with the facts of the case to attend and answer truly all questions other than questions the answer to which would have a tendency to incriminate him. We think that in the category of cases we have in mind the more appropriate and effective procedure would be that contemplated by the Coroners' Act, which ensures that the enquiry into the death is held by a person of independent standing and enjoying judicial powers, with a status and jurisdiction commensurate with the necessities of such cases and the assistance of an appropriate machinery.

22. We have referred to some of the important features of the case. We have done so not for the purpose of determining whether the girl was murdered or had committed suicide, but solely with the object of drawing attention to the manner in which the investigation of the case was conducted. Disappointing as it may seem to those who have desired the institution of criminal action on the basis that a crime has been committed, we do not think that on the material before us we can go that far. The investigation of the case was transferred from the police administration of Delhi to the Central Bureau of Investigation at the instance, we understand, of the petitioner. We hope and trust that this investigation has been completed. If not, we would request the Central Bureau of Investigation to complete the investigation within three months from today and take such action as may be warranted by the result of the investigation.

23. The petition is disposed of accordingly.

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