



2024:UHC:7165

**HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Writ Petition Criminal No. 1072 of 2024**

**27 September, 2024**

James Massey

...Petitioner

**Versus**

State Of Uttarakhand & Ors.

...Respondents

-----  
Presence:-

Mr. Priyank Kharkwal and Vijay Datt Gahtori, Advocates for the petitioner.

Mr. Deepak Bisht, Deputy A.G. for the State  
-----

**Hon'ble Vivek Bharti Sharma, J. (Oral)**

This writ petition is filed by the petitioner for the following reliefs:-

- (i) *To issue writ, order or direction in the nature of mandamus directing transfer of FIR No.0100/2024 P.S. Tanakpur u/s 140(3) Bhartiya Nyaya Sanhita 2023 to prosecution agency i.e CBCID or CBI or any Special Investigation Agency which the Hon'ble Court deems just, fit and appropriate in the interest of justice.*
- (ii) *To issue a writ, order or direction in the nature of mandamus directing preserving of CCTV footage of crime scene, adjoined National Highway and Police Station Tanakpur from 11 AM of 06.09.2024 till 11:59 PM of 08.09.2024 in the interest of justice.*
- (iii) *To issue a writ, order or direction in the nature of mandamus directing exhume of body of deceased Amosh Massey S/o Sh. James Massey, from Graveyard, Qabarstan, Verma Line, Tanakpur,*



*Uttarakhand and direct the respondent no.3 to conduct re-postmortem by the team of panel of doctor who have master's degree in Forensic Medicine within a stipulated time as may be fixed by the Hon'ble Court and to provide the said postmortem certificate along with the copy of the videographs of the said proceedings to the petitioner on the same day that the re-postmortem is conducted and grant such other reliefs in the interest of justice.*

2. Learned counsel for the petitioner/complainant would submit that his son (*hereinafter to be referred as 'deceased'*) was in love with a girl, however, her family was against this relationship as the girl belongs to Hindu Community while the deceased was belonging to Christian Community; that, on 06.09.2024 the deceased was seen with the girl and next day mother of the girl informed the petitioner/complainant that the dead body of his son was lying in bushes near the trees at Bichai, Tanakpur which is 200 mtrs. away from the house of girl; that, the petitioner lodged the FIR no.0100/2024 at P.S. Tanakpur u/s 140(3) of Bhartiya Nyaya Sanhita, 2023.

3. Learned counsel would further submit that after registration of FIR, autopsy on the body of the deceased was conducted but the same was not done properly; that, the injuries are visible on the back side of the skull of the deceased but nothing incriminating was mentioned in the post-mortem report regarding the cause of death or by which weapon or means death was resulted; that, the reason for death is only shown as hemorrhage shock due to ante-mortem injury. He would



further submit that in the post-mortem report doctor has not stated by which weapon or mode the death was caused.

4. He would further submit that CCTV footage of the area wherefrom the body was recovered would reveal that one day prior to the date of alleged incident the deceased was last seen with his girlfriend on her scooty.

5. He would further submit that the police is not conducting the investigation seriously and the inputs given by the petitioner/complainant to the Investigating Officer are also not being taken care; that, the Investigating Officer is not even collecting and securing the CCTV footage of the area wherefrom the dead body was recovered.

6. On the previous date i.e. 26.09.2024, State Counsel was asked to file a detailed counter affidavit. Today, he would submit that due to paucity of time counter affidavit could not be filed, however, he has received it with instructions, which he supplied to the Court. The same is taken on record. **Registry is directed to place the counter affidavit with written instructions on record with proper pagination.**

7. This Court carefully perused the record. In the counter affidavit, it is stated that as per the opinion of the Medical Officers injuries on the body of the deceased appears as if the same were received in any accident; that, photography and videography was done at the spot for collecting the evidence; that, after registration of FIR,



special police team was constituted on the direction of senior officials; that, in order to know the real reason regarding the death of the deceased sincere efforts were made to obtain useful information by intensive interrogation of people around the place of incident; that, CCTV footage around the scene of incident was checked and included in the investigation.

8. Learned State Counsel would submit that during investigation it was revealed that the deceased had a close friendship with a girl and both of them used to visit each other's house and sometimes used to stay at each other's house; that, both the families were agreed that they would get them married when both of them would attain the age of majority; that, before the date of incident i.e. on 07.09.2024 the deceased and the girl were in petitioner's house and in the evening when the girl left for her house on her scooty, the deceased also left with her; that, in CCTV footage girl was seen going alone on her scooty and after some time the deceased was also seen walking on foot on the Tanakpur Banbasa Highway from Pilibhit Chungi towards the girl's home; that, after perusal of all the evidences collected during investigation, it came to the light that the driver of Dumper No.UK03CA 1594 committed the accident due to rash and negligent driving causing fatal injuries to the deceased whereafter the vehicle owner was given a notice u/s 133 of M.V. Act and he was directed to produce the vehicle and the driver; that, on the basis of investigation and the evidences collected till now, it has come to light that the driver of said vehicle due to rash and negligent driving hit the deceased who was walking on road, which resulted



into his death.

9. Learned State Counsel would further submit that that main injury of the deceased was in the occipital region of the head, which is 6cm x 3cm deep from where he had excessive bleeding due which son of the petitioner had died; that, apart from that, there were marks of abrasions on the shoulder and other parts of the body which generally are received in road accidents; that, when the doctor was specifically asked whether such injuries could have been inflicted by any beating, the doctor, who conducted autopsy, specifically told that those injuries could not be received in beating because the injury was 6cm x 3cm deep in the occipital region which could not have been caused by any hard and blunt object like stick and had there been any beating given to the deceased then the injuries would have been on other parts of the body also; that, the doctor further told that while examining the internal organs of the deceased it appeared that the deceased might have been a drug user and it is possible that he might have consumed some drug at the time of death, therefore, viscera was preserved; that, there is other angle to the information of the dead body lying at the spot by mother of girl, and if the family of girl had inflicted the injuries then why the mother of girl would inform father of deceased; that, in such circumstances the culprit keeps mum or hides or behaves differently but does not inform about the dead body lying at a place; that, police is investigating the incident from all angles.

10. Considering the entire conspectus of things,



2024:UHC:7165

this writ petition is disposed of with a direction to the Investigating Agency to carry out the further investigation scientifically and in a professional manner by taking all the evidences into consideration from all the persons including the petitioner also.

**(Vivek Bharti Sharma, J.)**  
27.09.2024

Rajni