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MITHILESH KUMAR SINGH

v.

STATE OF RAJASTHAN

(Writ Petition (Crl.) No. 240 of 2011)

B

DECEMBER 11, 2014

[T. S. THAKUR, ADARSH KUMAR GOEL AND
R. BANUMATHI, JJ.]

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Investigation – Transfer of – From local police to Central Bureau of Investigation (CBI) – In the case of mysterious death of a college girl – Sought by the father of the girl (petitioner) – Alleging that the death was result of ragging by the senior students and that there were deficiencies and contradictions in the findings of the investigating agency –

D *Held: **Per Majority:** In view of sensitivity of the case and the circumstances pointed out by the petitioner, the investigation needs to be transferred from local police to CBI – **Per***

E ***Minority:** In the present case, the materials show that proper investigation was conducted by the local police – Handing over of instigation to CBI can be done only in exceptional circumstances – There is no special situation in the present case warranting investigation by CBI.*

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*Investigation – Fairness and propriety of – Requirement for – Held: **Per Thakur, J. :** In an adversarial system of administration of justice, fairness of investigation is the very first requirement for the fairness of a trial.*

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*Investigation – Transfer of – From one agency to another – Criteria for – To be adopted by the Court – Held: **Per***

H ***Thakur, J. :** The court, in exercise of its extra-ordinary power should transfer the investigation only when there is reasonable apprehension about justice becoming a victim because of shabby or partisan investigation – The sensibility of the victims or their next kin is not wholly irrelevant – The*

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hallmark of a transfer is the perceived independence of the transferred more than any other consideration. A

Allowing the Writ petition, the Court

HELD: MAJORITY OPINION :

PER T.S. THAKUR, J. B

1. Importance of a fair and proper investigation cannot be understated. In an adversarial system of administration of justice, fairness of investigation is the very first requirement for the fairness of a trial. A trial based on a partisan motivated, one sided, or biased investigation can hardly be fair. That is because while the trial itself may be procedurally correct, the essence and the purpose thereof may be vitiated by an unfair or ineffective investigation. [Para 3][1369-D-F] C

2. It is only when there is a reasonable apprehension about justice becoming a victim because of shabby or partisan investigation that the Court may step in and exercise its extra ordinary powers. The sensibility of the victims of the crime or their next of kin is not wholly irrelevant in such situations. Unless the Court sees any design behind the prayer for transfer, the same must be seen as an attempt only to ensure that the truth is discovered. The hallmark of a transfer is the perceived independence of the transferee more than any other consideration. Discovery of truth is the ultimate purpose of any investigation and who can do it better than an agency that is independent. [Para 9][1373-E-H; 1374-A-B] D
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3. Transfer can be ordered once the Court is satisfied on the available material that such a course will promote the cause of justice, in a given case. In the present case circumstances leading to the death of young college student girl have become the subject G

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- A** matter of investigation. The issue is sensitive not only because of loss of an invaluable human life but also because of the reasons which are sought to be attributed for the sordid affair. The circumstances which the petitioner has referred to in the writ petition and the
- B** written submissions as also the contentions that were urged before this court in the course of the hearing may or may not be conclusive in their import but those circumstances need to be suitably looked into by an independent investigating agency like the CBI lest an
- C** incomplete, indifferent or ineffective investigation leads to failure of justice. Therefore, the investigation is directed to be transferred to the Central Bureau of Investigation. Therefore, the investigation is directed to be transferred to the Central Bureau of Investigation.
- D** [Paras 12, 13 and 14][1375-C-H]

- Manu Sharma v. State (NCT of Delhi)* (2010) 6 SCC 1 : 2010 (4) SCR 103 ; *Nirmal Singh Kahlon v. State of Punjab* (2009) 1 SCC 441 : 2008 (14) SCR 1049 ; *Sasi Thomas v. State and Ors.* (2006) 12 SCC 421 : 2006 (9) Suppl. SCR 450; *Zahira Habibulla H. Sheikh and Anr. v. State of Gujarat and Ors.* (2004) 4 SCC 158 : 2004 (3) SCR 1050; *Babubhai v. State of Gujarat and Ors.* (2010) 12 SCC 254 : 2010 (10) SCR 651 ; *State of West Bengal & Ors. v. Committee for protection of Democratic Rights, West Bengal & Ors.* (2010) 3 SCC 571 : 2010 (2) SCR 979 ; *Inder Singh v. State of Punjab* (1994) 6 SCC 275 ; *R.S. Sodhi Advocate v. State of U.P. & Ors.* 1994 (Supp) (1) SCC 143 ; *State of Punjab v. CBI* (2011) 9 SCC 182 : 2011 (11) SCR 281 ; *Subrata Chattoraj v. Union of India* (2014) 8 SCC 768 – relied on.

PER ADARSH KUMAR GOEL, J. (Concurring) A

4. It is true that the prayer for transfer of investigation from State police to C.B.I. can be allowed only in rare and exceptional circumstances when fair investigation by State police does not inspire confidence on account of any external influence or otherwise. There can be no cast iron parameters and whether an exceptional situation has arisen, may be determined by the Court by taking an overview of the fact situation of a particular case. In the present case, it is not necessary to blame the college authorities or the local police but the apprehension of the petitioner and his prayer for transfer of investigation also cannot be rejected. The death of a young girl student has taken place in mysterious circumstances. According to the petitioner, the statement of the girl was not recorded even though it could have been done and thus, truth has not come out. In these circumstances, it will be appropriate that the matter is investigated by the C.B.I. [Para 4][1377-D-G] B C D

State of West Bengal and Ors. v. Committee for Protection of Democratic Rights, West Bengal and Ors. (2010) 3 SCC 571 : 2010 (2) SCR 979 – followed. E

MINORITY OPINION:

PER R. BANUMATHI, J. F

5. On lodging of the complaint by the petitioner, police have registered the case u/s. 306 IPC. Based upon the statement of witnesses, medical report and other materials, the investigating officer of the State Police found that it is a case of suicide and filed the final report. The materials of the case show that proper investigation has been conducted. [Para 9][1381-C, D-E] G

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- A 6. Handing over investigation to the CBI can be ordered only in an exceptional situation and such an order is not to be passed as a routine merely because a party has levelled vague allegations. The present case is not such an exceptional situation warranting special investigation by the CBI. The writ petition is dismissed. [Paras 10 and 11][1381-F; 1382-E-F]

- C *State of West Bengal & Ors. v. Committee for Protection of Democratic Rights, West Bengal & Ors. (2010) 3 SCC 571 : 2010 (2) SCR 979* – followed.

CASE LAW REFERENCE

In the Judgment of T.S. Thakur, J. :

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|---|-------------------------|-------------|---------|
| D | 2010 (4) SCR 103 | relied on | Para 3 |
| | 2008 (14) SCR 1049 | relied on | Para 4 |
| | 2006 (9) Suppl. SCR 450 | relied on | Para 5 |
| | 2004 (3) SCR 1050 | relied on | Para 6 |
| E | 2010 (10) SCR 651 | relied on | Para 7 |
| | 2010 (2) SCR 979 | referred to | Para 8 |
| | (1994) 6 SCC 275 | relied on | Para 10 |
| | 1994 (Supp) (1) SCC 143 | relied on | Para 10 |
| F | 2011 (11) SCR 281 | relied on | Para 11 |
| | (2014) 8 SCC 768 | relied on | Para 11 |

In the Judgment of Adarsh Kumar Goel, J. :

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| G | 2010 (2) SCR 979 | followed | Para 4 |
|---|------------------|----------|--------|

In the Judgement of R. Banumathi, J. :

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| | 2010 (2) SCR 979 | followed | Para 10 |
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CRIMINAL ORIGINAL JURISDICTION : Writ Petition (Criminal) No. 240 of 2011. A

Under Article 32 of the Constitution of India

K. Radhakrishnan, Sr. Adv., Ms. Meenakshi Lekhi, Mukesh Chauhan, Harish Pandey, Mayank Upadhyay, Jitendra Tripathi, Ranjan Narayan, Mod. Kharafi, B.V. Balaram Das, E.C. Agarwala, Baldev Atreya, Deepak Gupta, Arvind Kumar Sharma, Amit Sharma, Sandeep Singh, Deepak Goel, V.N. Raghupathy, Advs. for the appearing parties. B

The Judgments of the Court were delivered by C

T. S. THAKUR, J.

1. I have had the advantage of going through the order proposed by my noble sister Banumathi J. I regret to say that I have not been able to persuade myself to agree to the dismissal of the writ petition which in my opinion raises sensitive issues touching not only the fairness of investigation in a case involving death of a young college student in suspicious circumstances but also whether the sordid episode was a result of ragging of the deceased by her senior colleagues which the college authorities failed to prevent despite being informed about the same. Given the circumstances pointed out by the petitioner it may be premature for this Court to hold that the investigation conducted by the local police was fair or that the deceased jumped from the four storeyed college hostel to commit suicide as she was carrying an unwanted pregnancy. The petitioner who is the unfortunate father of the deceased has attempted to point out certain deficiencies and contradictions in the findings of the investigating agency which in my opinion need to be investigated in a dispassionate attempt to discover the truth, by an outside agency like the CBI. D E F G

2. The facts in the backdrop have been stated by my erudite sister in the order proposed by her. It will, therefore, H

A serve no purpose to repeat them over again. That the deceased and her sister were admitted to the college as freshers is not in dispute. That she sustained injuries because of a fall from the fourth floor of the college hostel where she was staying with her sister is also not in dispute. That she was moved first

B to Dulet hospital and later to Sawai Man Singh hospital is also a fact not in dispute. That three days after her fall from the building she passed away is also admitted. What called for a fair and proper investigation was whether she fell because of ragging by the seniors as alleged by the petitioner or she

C jumped to commit suicide. The case of the respondents which includes the state of Rajasthan, the police and the college where she was studying, appears to be that she committed suicide because of an unwanted pregnancy which she was carrying. Reliance in support of that version is placed upon

D the medical record of the hospital, which appears to suggest that (a) she was 14 weeks pregnant and, (b) the pregnancy was aborted within 24 hours of her death. The record also suggests that the petitioner had declined to consent to the removal of the foetus from the womb of the deceased despite

E being counselled about the consequences that would follow, should that procedure be not followed. From the medical record it appears that no removal of foetus was conducted by the doctors for want of consent by the father of the deceased. What is alleged is that the post mortem report does not establish in

F clear terms the presence of a pregnancy or a 14 week old foetus. This according to the petitioner belies the story that the deceased was pregnant which could give her a possible reason to commit suicide. The Petitioner's case also is that a complaint about harassment by the ragging had been made

G to the college authorities who did not act in the matter. The petitioner alleges that the deceased had remained unattended on the ground after the fall for about half an hour because of the negligence of the college authorities. There is also an allegation that although the deceased had sustained serious injuries which eventually proved fatal no complaint or report

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was lodged by the college authorities with the police. No statement or dying declaration of the deceased was recorded during the time she was in the hospital even though she was conscious and oriented. The medical record has been, according to the petitioner, fabricated as the college is owned and run by influential people in the state of Rajasthan, apart from the fact that a senior doctor in the hospital is related to one of the respondents. There are also allegations of the college authorities having pressurized the younger sister of the deceased not to disclose the true facts to anyone for otherwise she will face consequences. All told the petitioner is totally dissatisfied and disillusioned with the investigation conducted by the State Police. That is why he prays for a fair and proper investigation into the episode to bring the truth to light so that justice is done not only at the stage of investigation but even at the trial which depends so much on the fairness of the investigation.

3. Importance of a fair and proper investigation cannot be understated. In an adversarial system of administration of justice, fairness of investigation is the very first requirement for the fairness of a trial. A trial based on a partisan motivated, one sided, or biased investigation can hardly be fair. That is because while the trial itself may be procedurally correct, the essence and the purpose thereof may be vitiated by an unfair or ineffective investigation. This Court has in several pronouncements, emphasized the importance of the fairness of the investigation. Reference, in this regard, may be made to the decision of this Court in **Manu Sharma v. State (NCT of Delhi) (2010) 6 SCC 1** where this Court while dealing with the fairness of the investigation said:

"The criminal justice administration system in India places human rights and dignity for human life at a much higher pedestal. In our jurisprudence an accused is presumed to be innocent till proved guilty, the alleged accused is entitled to fairness and true investigation

A *and fair trial and the prosecution is expected to play*
balanced role in the trial of a crime. The investigation
should be judicious, fair, transparent and expeditious
to ensure compliance with the basic rule of law. These
B *are the fundamental canons of our criminal*
jurisprudence and they are quite in conformity with the
constitutional mandate contained in Articles 20 and 21
of the Constitution of India.”

4. In ***Nirmal Singh Kahlon v. State of Punjab (2009)***
C ***1 SCC 441***, this Court held that fairness of investigation is
important not only for the accused but even for the victim. This
Court said:

D *“An accused is entitled to a fair investigation. Fair*
investigation and fair trial are concomitant to
preservation of fundamental right of an accused under
article 21 of the constitution of India. But the state has a
larger obligation to maintain law and order, public order
and preservation of peace and harmony in the society.
E *A victim of a crime thus is equally entitled to a fair*
investigation.”

5. To the same effect is the decision of this Court in ***Sasi***
Thomas v. state and Ors. (2006) 12 SCC 421, where fairness
of investigation was recognized as an important facet of the
rule of law. The Court said:

F *“Proper and fair investigation on the part of the*
investigating officer is the backbone of rule of law. A
proper and effective investigation into a serious offence
and particularly in a case where there is no direct
G *evidence assumes great significance as collection of*
adequate materials to prove the circumstantial
evidence becomes essential. Unfortunately, the
appellant has not been treated fairly. When a death has
occurred in a suspicious circumstance and in particular
when an attempt had been made to bury the dead body
H *hurriedly and upon obtaining apparently an incorrect*

*medical certificate, it was expected that upon A
exhumation of the body, the investigating authorities of
the State shall carry out their statutory duties fairly."*

6. Reference may also be made to **Zahira Habibulla H. Sheikh and Another v. State of Gujarat and Others (2004) 4 SCC 158**, where the Court held that justice can become a B
victim if the investigation is not fair. The Court observed:

*"When the investigating agency helps the accused, the witnesses are threatened to depose falsely and the prosecutor acts in a manner as if he was defending the C
accused, and the court was acting merely as an onlooker and when there is no fair trial at all, justice becomes the victim."*

7. I may lastly refer to the decision of this Court in **Babubhai v. State of Gujarat and ors. (2010) 12 SCC, 254**, D
where the Court reiterated the legal position in the following words:

*"The investigation into a criminal offence must be free from objectionable features or infirmities which may legitimately lead to a grievance on the part of the E
accused that investigation was unfair and carried out with an ulterior motive. It is also the duty of the Investigating Officer to conduct the investigation avoiding any kind of mischief and harassment to any of the accused. The Investigating Officer should be fair and conscious so as to rule out any possibility of fabrication of evidence and his impartial conduct must dispel any suspicion as to its genuineness. The Investigating Officer "is not to bolster up a prosecution case with such evidence as may enable the court to record conviction but to bring out the real unvarnished truth". (Vide R.P. Kapur Vs. State of Punjab AIR 1960 SC 866; Jamuna Chaudhary & Ors. Vs. State of Bihar AIR 1974 SC 1822; and Mahmood Vs. State of U.P. AIR 1976 SC 69). G
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A 40. *Therefore, if the Court, comes to the conclusion that the investigation has been done in a manner with an object of helping a party, the court may direct for further investigation and ordinarily not for re-investigation.*

B 41. *The expression ordinarily means normally and it is used where there can be an exception. It means i., the large majority of cases but not invariably. "Ordinarily" excludes "extra-ordinary" or "special circumstances". (vide: Kailash Chandra Vs. Union of India AIR 1961 SC 1346; Eicher Tractors Ltd., Haryana Vs. Commissioner of Customs, Bombay AIR 2001 SC 196; and State of A.P. Vs. Sarma Rao & Ors. AIR 2007 SC 137).*

C 42. *Thus, it is evident that in exceptional circumstances, the court in order to prevent the miscarriage of criminal justice, if considers necessary, it may direct for investigation de novo wherein the case presents exceptional circumstances.*

D 45. *Not only the fair trial but fair investigation is also part of constitutional rights guaranteed under Articles 20 and 21 of the Constitution of India. Therefore, investigation must be fair, transparent and judicious as it is the minimum requirement of rule of law. Investigating agency cannot be permitted to conduct an investigation in tainted and biased manner. Where non- interference of the court would ultimately result in failure of justice, the court must interfere. In such a situation, it may be in the interest of justice that independent agency chosen by the High Court makes a fresh investigation."*

E 8. *Such being the importance of fair and proper investigation, this Court has in numerous cases arising out of several distinctly different fact situations exercised its power of transferring investigation from the State/jurisdictional police to the Central Bureau of Investigation under Delhi Police*

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Establishment Act. There was mercifully no challenge to the power of this Court to direct such a transfer and in my opinion rightly so as the question whether this Court has the jurisdiction to direct transfer stands authoritatively settled by the Constitution bench of this Court in ***State of West Bengal & Ors. v. Committee for protection of Democratic Rights, West Bengal & Ors. (2010) 3 SCC 571.***

9. Even so the availability of power and its exercise are two distinct matters. This Court does not direct transfer of investigation just for the asking nor is transfer directed only to satisfy the ego or vindicate the prestige of a party interested in such investigation. The decision whether transfer should or should not be ordered rests on the Court's satisfaction whether the facts and circumstances of a given case demand such an order. No hard and fast rule has been or can possibly be prescribed for universal application to all cases. Each case will obviously depend upon its own facts. What is important is that the Court while exercising its jurisdiction to direct transfer remains sensitive to the principle that transfers are not ordered just because a party seeks to lead the investigator to a given conclusion. It is only when there is a reasonable apprehension about justice becoming a victim because of shabby or partisan investigation that the Court may step in and exercise its extraordinary powers. The sensibility of the victims of the crime or their next of kin is not wholly irrelevant in such situations. After all transfer of investigation to an outside agency does not imply that the transferee agency will necessarily much less falsely implicate anyone in the commission of the crime. That is particularly so when transfer is ordered to an outside agency perceived to be independent of influences, pressures and pulls that are common place when State police investigates matters of some significance. The confidence of the party seeking transfer in the outside agency in such cases itself rests on the independence of that agency from such or similar other considerations. It follows that unless the Court sees any design behind the prayer for transfer, the same must be seen as an

A attempt only to ensure that the truth is discovered. The hallmark of a transfer is the perceived independence of the transferee more than any other consideration. Discovery of truth is the ultimate purpose of any investigation and who can do it better than an agency that is independent.

B 10. Having said that we need to remind ourselves that this Court has, in several diverse situations, exercised the power of transfer. In ***Inder Singh v. State of Punjab (1994) 6 SCC 275*** this Court transferred investigation to the CBI even when the investigation was being monitored by senior officers of the State Police. So also in ***R.S. Sodhi Advocate v. State of U.P. & Ors. 1994 (Supp) (1) SCC 143*** investigation was transferred even when the State police was doing the needful under the supervision of an officer of the rank of an Inspector General of Police and the State Government had appointed a
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D one member Commission of Inquiry headed by a sitting Judge of the High Court to enquire into the matter. This Court held that however faithfully the police may carry out the investigation the same will lack credibility since the allegations against the police force involved in the encounter resulting in the killing of
E several persons were very serious. The transfer to the CBI, observed this Court, "would give reassurance to all those concerned including the relatives of the deceased that an independent agency was looking into the matter."

F 11. Reference may also be made to the decision of this Court in ***State of Punjab v. CBI (2011) 9 SCC 182*** where this Court upheld the order transferring investigation from the State Police to the CBI in connection with a sex scandal even when the High Court had commended the investigation conducted by the DIG and his team of officers. In ***Subrata Chattoraj v. Union of India (2014) 8 SCC 768***, this Court directed transfer of the chit fund scam in the states of West Bengal and Orissa from the state police to the CBI keeping in
G view the involvement of several influential persons holding high positions of power and influence or political clout.
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12. Suffice it to say that transfers have been ordered in varied situations but while doing so the test applied by the Court has always been whether a direction for transfer, was keeping in view the nature of allegations, necessary with a view to making the process of discovery of truth credible. What is important is that this Court has rarely if ever viewed at the threshold the prayer for transfer of investigation to CBI with suspicion. There is no reluctance on the part of the Court to grant relief to the victims or their families in cases, where intervention is called for, nor is it necessary for the petitioner seeking a transfer to make out a cast iron case of abuse or neglect on the part of the State police, before ordering a transfer. Transfer can be ordered once the Court is satisfied on the available material that such a course will promote the cause of justice, in a given case.

13. In the case at hand circumstances leading to the death of young college student girl have become the subject matter of investigation. The issue is sensitive not only because of loss of an invaluable human life but also because of the reasons which are sought to be attributed for the sordid affair. The circumstances which the petitioner has referred to in the writ petition and the written submissions as also the contentions that were urged before us in the course of the hearing may or may not be conclusive in their import but those circumstances need to be suitably looked into by an independent investigating agency like the CBI lest an incomplete, indifferent or ineffective investigation leads to failure of justice.

14. In the result, I allow this petition and direct transfer of investigation in FIR No.463 of 2011 registered in the Bagru Police Station, Jaipur to the Central Bureau of Investigation. The Director of CBI shall ensure that the investigation is assigned to officers competent to handle the same and take such follow up action as is permissible in accordance with law. I make it clear that I have expressed no opinion as to the merits

A of the case or the complicity of anyone associated with the incident directly or indirectly. Observations made in this order shall be treated to have been made only for the purposes of deciding whether or not an order of transfer is justified. No Costs.

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ADARSH KUMAR GOEL, J.

1. I have perused the orders proposed by my esteemed brother Hon'ble T.S. Thakur, J. and my esteemed sister Hon'ble R. Banumathi, J., taking differing views in the matter of justification for the prayer of the petitioner for transfer of investigation of F.I.R. No.463 of 2011, registered at Police Station Bagru, Jaipur, Rajasthan from Rajasthan Police to the Central Bureau of Investigation (C.B.I.). I am inclined to agree with the operative part of the order proposed by Hon'ble T.S. Thakur, J.

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2. The matter relates to unfortunate death of a young girl student on 8th September, 2011. A case was registered under Section 306 of the Indian Penal Code on the allegation that the deceased, who was admitted to Engineering Course at Jaipur, was harassed by the senior students of the Institute. She was taken to fourth floor and made to see downwards even though she was scared and felt dizziness. She fell down to the ground and suffered injuries. She was not properly attended and she died on account of injuries and negligence. To cover up the truth and to save the reputation of the college, false medical record was prepared to show that she had fourteen weeks' pregnancy on account of which she committed suicide by jumping from the fourth floor. According to the petitioner, the local police did not conduct fair investigation and filed final report wrongly declaring the case to be that of suicide. Accordingly, the petitioner has approached this Court for a direction to shift the investigation to C.B.I. so that truth could be ascertained and justice done. The case of the college authorities and the local police, on the other hand, is that she

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jumped from the fourth floor and the college authorities took all possible steps for her treatment. Reliance has also been placed on medical report to the effect that she had fourteen weeks' pregnancy and on account of that she wanted to end her life. As a result of her fall, pregnancy was aborted but she did not agree to the removal of fetus which led to septicaemia and her death.

3. We have given anxious consideration to the issue. At this stage, the only question is whether apprehension of the petitioner that investigation by local police may not be fair has some basis and whether his prayer for transfer to C.B.I. ought to be accepted.

4. It is true that the prayer for transfer of investigation from State police to C.B.I. can be allowed only in rare and exceptional circumstances when fair investigation by State police does not inspire confidence on account of any external influence or otherwise as held in State of West Bengal and others vs. Committee for Protection of Democratic Rights, West Bengal and others¹. There can be no cast iron parameters and whether an exceptional situation has arisen may be determined by the Court by taking an overview of the fact situation of a particular case. In the present case, we do not consider it necessary to blame the college authorities or the local police but we are also unable to reject the apprehension of the petitioner and his prayer for transfer of investigation. The death of a young girl student has taken place in mysterious circumstances. According to the petitioner, the statement of the girl was not recorded even though it could have been done and thus, truth has not come out. In these circumstances, without expressing any opinion on merits, it will be appropriate that the matter is investigated by the C.B.I.

5. Accordingly, this petition is allowed and investigation of F.I.R. No.463 of 2011, registered at Police Station Bagru, Jaipur, is transferred to the C.B.I.

¹(2010) 3 SCC 571

A 6. The petition stands disposed of accordingly.

R. BANUMATHI, J.

B 1. This writ petition has been filed by the petitioner seeking writ of mandamus to initiate an independent investigation by the Central Bureau of Investigation (CBI) into the death of his daughter S.S., a student of B. Tech 1st Year of Rajasthan College of Engineering for Women, Jaipur, who succumbed to injuries which she sustained by falling from the IVth floor railing of her hostel room.

C 2. Briefly stated case of the petitioner is as follows:- The petitioner is a resident of Bihar and is working at Visakhapatnam. Petitioner's two daughters, namely, S.S. and T.S., took admission in B.Tech on 25.8.2011 in Rajasthan College of Engineering for Women, Jaipur and were admitted D in the college hostel. Petitioner contends that on 2.9.2011 his two daughters were ragged by two senior girls of 2nd year and the same was informed to him by his daughter S.S. over phone. S.S. is also stated to have called up her maternal aunt to inform her about the incident. To enquire further, her aunt (Raj Kumari E Devi) went to the hostel and met Shalini, Chief Warden, who, in turn, assured her that the matter would be looked into and steps would be taken. On 6.9.2011, S.S. is said to have informed her younger sister T.S. that she was not well and so she would not be attending classes and T.S. went to college. F On the same day at about 12.30 P.M., it is alleged that two senior girls again caught S.S. for ragging by making her climb on the railing of the fourth floor forcing her to look towards the ground and while doing so, S.S. fell down and sustained injuries, and she remained as such on the ground for about G half an hour. After someone noticed her, she was taken to "Dulet Hospital" where she was given first aid treatment and she was referred to Sawai Man Singh (SMS) Hospital, Jaipur. The petitioner contends that his younger daughter T.S. was H disclose the fact of ragging or else her career would be ruined.

Further, he claimed that the statement of his younger daughter T.S. recorded under Section 161 of the Code of Criminal Procedure was obtained under coercion and threat of false charges being implicated against her and her sister. A

3. S.S. sustained grievous injuries in her legs and spinal cord and after regaining her consciousness after three hours of being admitted in the hospital, she narrated the incident to T.S. The petitioner reached the hospital on the evening of 7.9.2011 when the deceased recounted the incident to him. On 8.9.2011 at 7.30 P.M., S.S. succumbed to injuries. The petitioner contends that despite the fact that S.S. remained alive for three days and was in her full senses, under the influence of college authorities police have not recorded the statement of S.S. Petitioner alleges that the medical report of the victim was prepared on the instruction and connivance of the college authorities making a false allegation and chastising the character of the deceased. The petitioner approached the Chief Minister of Rajasthan, Chairman of National Human Rights Commission and the Chairman of National Commission for Women in a bid to get justice, but of no avail. B C D E

4. Invoking Article 32 of the Constitution of India, petitioner has filed this writ petition, stating that grave injustice has been done to his daughter which is in violation of the fundamental rights. The petitioner contends that the college authorities have connived with the police and the hospital so as to save the college from being levelled allegations of ragging. The petitioner contends that the investigation conducted by the State police is biased and therefore seeks direction to entrust the investigation to CBI. F

5. Respondent Nos. 1 to 4, namely, the police authorities and the State of Rajasthan, have filed their counter affidavits contending that none of the statements of the sister of deceased, other friends, Principal of the college, chief warden, warden and other staff and members revealed about any incident of ragging. Respondent Nos. 1 to 4 contend that G H

A considering the pain and agony of the family of the deceased, they conducted a fair investigation in a proper manner so as to sub-serve the best interest of justice. It is averred that the investigation of the case was conducted under the direction of the senior officers and during investigation no evidence of
B ragging was found and it was found to be a case of suicide and to that effect, final report was filed before the Court of Chief Metropolitan Magistrate, Jaipur.

6. Respondent Nos. 5 to 7, namely, the college authorities, filed counter affidavit denying each and every averment in the
C petition. According to the college authorities, immediately after the incident S.S. was taken to "Dulet Hospital" which is hardly 500 metres from the campus. After first aid, S.S. was referred to Sawai Man Singh (SMS) Hospital, Jaipur where she was admitted in the emergency ward and doctors had
D given her immediate treatment. Respondent Nos. 5 to 7 further stated that all the risk factors were explained to the petitioner by the doctors about septicaemia and infection and other complications if unwanted substances are not removed from the uterus of S.S. by induction. The respondents also
E contend that the college authorities constituted a committee on 6.9.2011 itself to investigate the matter with regard to the ragging and the committee found that the deceased was having medical problems like nausea, vomiting and headache and there was no incident of ragging, as alleged by the petitioner.
F It is averred that the allegations levelled in the petition are totally baseless and unfounded. According to Respondent Nos. 5 to 7, the complaint was thoroughly investigated by the police and on finding that there was no evidence of ragging, the police filed a final report in the Court of Chief Metropolitan Magistrate,
G Jaipur.

7. Respondent No.8, namely, Central Bureau of Investigation, prayed that the investigation in the instant case should be left with the State police with the directions that a
H Special Investigation Team be constituted to reach some

logical end as the instant case does not fall in the category of rare cases. A

8. We have heard the submissions of the learned counsel for the petitioner and the learned counsel for the respondents who have reiterated the respective averments made in the writ petition and the counter affidavits. We have also perused the medical report of S.S., histopathological report, final report filed by the State Police and other materials on record. B

9. By perusal of the materials, it is seen that on lodging of the complaint by the petitioner on 9.9.2011, police have registered the case in F.I.R. No. 463/2011 under Section 306 of the Indian Penal Code at Police Station Bagru, Jaipur. The State police recorded the statement of the sister of deceased, other classmates, principal of the college, chief warden, warden and other staff, doctors and all the concerned persons. Based upon the statement of witnesses, medical report and other materials, the investigating officer found that it is a case of suicide and filed the final report. I am refraining from entering upon the details thereof, lest, it may prejudice any party. Upon consideration of the materials, in my view, proper investigation has been conducted. C
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10. Observing that handing over investigation to the CBI can be ordered only in an exceptional situation and such an order is not to be passed as a routine merely because a party has levelled vague allegations, a Constitution Bench of this Court in *State of West Bengal & Ors. vs. Committee for Protection of Democratic Rights, West Bengal & Ors.*, (2010) 3 SCC 571, in paragraph (70) held as under:- F

“70. Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by Articles 32 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these constitutional powers. The very plenitude of the power G

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- A under the said articles requires great caution in its exercise. Insofar as the question of issuing a direction to CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised
- B but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide
- C credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations.”
- D
- E 11. Having regard to the materials on record, in my considered view, the case in hand is not such an exceptional situation warranting special investigation by the CBI. The writ petition is dismissed. However, the petitioner is at liberty to work out the remedy in accordance with law.
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