

Reserved on : 18.12.2024
Pronounced on : 17.03.2025



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF MARCH, 2025

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.24360 OF 2024 (GM - RES)

BETWEEN:

DR.S.CHANDRAKALA
W/O LATE M.SRINIVAS
AGED ABOUT 55 YEARS
RESIDING AT
ZAKIR HUSSAIN MOHALLA
SRINIVASAPURA TOWN
KOLAR – 563 135.

... PETITIONER

(BY SRI SANDESH J.CHOUTA, SR.ADVOCATE A/W
SMT.SANYA MALLI, ADVOCATE)

AND:

1 . STATE OF KARNATAKA BY
SRINIVASAPURA POLICE STATION
(NOW INVESTIGATED BY CID
BENGALURU)
REPRESENTED BY
STATE PUBLIC PROSECUTOR,

HIGH COURT BUILDINGS
BENGALURU – 560 001.

- 2 . CENTRAL BUREAU OF INVESTIGATION
CBI, ACB, OFFICE OF HEAD OF BRANCH
36, BELLARY ROAD, KGH LAYOUT,
GANGANAGAR, BENGALURU
KARNATAKA – 560 032
(REPRESENTED BY
SPECIAL PUBLIC PROSECUTOR
SRI P. PRASANNA KUMAR).
3. ADDITIONAL CHIEF SECRETARY
HOME DEPARTMENT
ROOM NO.222, 2ND FLOOR
VIDHANA SOUDHA,
BENGALURU – 560 001.

... RESPONDENTS

(BY SRI C.H.HANUMANTHARAYA, SPL. PUBLIC PROSECUTOR
A/W SRI B.N.JAGADEESHA, ADDL.SPP FOR R-1 AND R-3;
SRI P.PRASANNA KUMAR, SPL.PP FOR R-2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ SECTION 482 OF CR.P.C., PRAYING TO ISSUE DIRECTION TO R-2 TO CONDUCT FURTHER INVESTIGATION IN CRIME NO. 372/2023 OF SRINIVASPURA POLICE STATION, CHARGE-SHEETED FOR THE OFFENCES P/U SECTIONS 120B, 109, 212, 307, 302, 201 R/W 149 IPC AND SECTION 3(2)(v), 3(2)(va) SC/ST ACT 1986, VIDE ANNEX-A AND J WHICH IS NOW PENDING BEFORE THE HON'BLE II ADDL.

DISTRICT AND SESSIONS JUDGE, KOLAR IN SPL C. IPC AND SC/ST
NO. 03/2024.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED
FOR ORDERS ON 18.12.2024, COMING ON FOR PRONOUNCEMENT
THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioner, a grieving widow of late M.Srinivas is standing at the hallowed portals of this Court, seeking a direction for conduct of further investigation into a crime in Crime No.372 of 2023 registered for offences under Sections 120B, 302 and 307 of IPC by the Srinivasapura Police Station, now at the hands of an independent agency.

2. The facts unfurled are as follows:-

On 23-10-2023 a complaint comes to be registered by a Mason and Driver of one M.Srinivas. The gist of the complaint was that on 23-10-2023, as he would do every day, complainant goes

near the house of M.Srinivas at Zakir Hussain Mohalla and enquired about the work for the day. The narration in the complaint is that the work for the day was to visit a construction site which had some dispute with the Forest Department and M.Srinivas goes to the place with the de-facto complainant at 11.00 a.m. to check the work being done and later reaches the construction site near Hugalagere Road. It appears that M.Srinivas sat under a Mango tree and started sipping tea along with the security, CW-2 Krishna and CW-17 Rajesh and the de-facto complainant. About 6 people come to the said spot on bikes carrying a cement bag. One of those 6 persons come to shake hands with M.Srinivas for the purpose of greeting him. By then the other person sprayed pepper spray on the face of M.Srinivas, takes out knife, long and talwars from the cement bag and assaulted M.Srinivas. The complainant and others ran to save themselves, but saw those persons assaulting M.Srinivas with deadly weapons on the head and other parts of the body. When the complainant raised a hue and cry, it appears the assailants fled on the bikes.

3. It is on this incident a complaint comes to be registered which becomes a crime in Crime No.372 of 2023. By then M.Srinivas was shifted to the local hospital and the doctors referred him to a hospital nearby for a better treatment and then he was shifted to Jalappa Hospital. After some time, it is the narration that he gets to know from CW-17 that M.Srinivas succumbed to the injuries and died at 1.50 p.m. It is the further narration in the complaint that accused Nos.1, 5, 9 and 8 were all wreaking vengeance against M.Srinivas and in furtherance of that conspiracy have killed M.Srinivas. M.Srinivas was an ex-President of Zilla Panchayat, Kolar District. Investigation begins in the aforesaid crime. During the investigation, the wife of the deceased, the present petitioner suspected involvement of others in her husband's murder. She requested change of investigating agency, as the apprehension was pressure would be mounted upon local police, as the deceased had many political rivalries. The same request was also made by different organizations of the area. Pursuant thereto, the State Government hands over the investigation to the Crime Investigation Department ('CID'). The CID takes over the investigation. It is the averment in the petition that the CID also did

not make any further efforts into the investigation. It adopted the investigation and materials collected by the local Police and filed a charge sheet on 17-01-2024 for offences punishable under Sections 120B, 109, 212, 307, 302, 201 r/w 149 of the IPC and Sections 3(2)(v) and 3(2)(va) of the SC/ST Act, 1986.

4. After filing of the charge sheet, the petitioner then represents to the **powers that be**, including the top brass, the Chief Minister and Home Minister, to transfer the investigation to the Central Bureau of Investigation ('CBI'), as the CID which only adopted the investigation of local Police did not conduct investigation that would inspire semblance of confidence. These representations go unheeded and, therefore, the petitioner is at the door of this Court, in the subject petition, seeking further investigation through any independent agency.

5. Heard Sri Sandesh J.Chouta, learned senior counsel appearing for the petitioner, Sri C.H.Hanumantharaya, learned Special Public Prosecutor appearing for respondents 1 and 3 along with Sri B.N.Jagadeesha, learned Additional State Public Prosecutor

and Sri P.Prasanna Kumar, learned Special Public Prosecutor appearing for respondent No.2.

SUBMISSIONS:

PETITIONER:

6. The learned senior counsel Sri Sandesh J. Chouta appearing for the petitioner would vehemently contend that the investigation conducted by the local Police or even the CID is so shoddy that it would shock the conscience of any Court perusing the documents of investigation. He would project plethora of lacunae in the conduct of investigation, which would finally result in acquittal of the accused only. The learned senior counsel would emphasize on the fact that the petitioner was a politician of the local area and being a prominent man, had several rivals. He has been killed by giving supari to others. He would, therefore, contend that none of the local Police or even the CID can do justice to the investigation. It must be handed over to an independent investigating agency like the CBI. He would further contend that it would be only in run of the mill cases, the Apex Court declines to

hand it over to the CBI. This is a fit case as the investigation is full of lacunae.

SPECIAL PUBLIC PROSECUTOR:

7. Per contra, the learned Special Public Prosecutor appointed Sri C.H. Hanumantharaya is candid in accepting the flaw that the investigation conducted is so shoddy that it fails to follow rudimentary principles of conduct of investigation. He would also accept that the Investigating Officers of local Police or even the CID have not done enough to unearth the truth. He submits that it is a sorry state of affairs where the investigation is carried out in this manner in a case of murder. He would make these submissions notwithstanding the fact that he is appointed as a Special Public Prosecutor to prosecute the case on behalf of the State. He would submit that he cannot defend such investigations.

ADDITIONAL STATE PUBLIC PROSECUTOR:

8. The learned Additional State Public Prosecutor Sri B.N. Jagadeesha was also asked to assist the Court. The learned

Additional State Public Prosecutor has placed certain notifications of appointment of the Special Public Prosecutor and certain judgments and submits that investigation should not be transferred for the asking, as the local Police have done a good job is his submission. All the learned counsel representing the parties have relied on plethora of judgments rendered by the Apex Court, this Court and different High Courts and all of them would bear consideration *qua* their relevance in the course of the order.

CENTRAL BUREAU OF INVESTIGATION (CBI):

9. The learned counsel Sri P.Prasanna Kumar representing the 2nd respondent, CBI would submit that if the investigation is placed at the hands of the CBI, it will conduct appropriate investigation and place the report before the concerned Court within a time frame, as this Court would direct. However, he would leave the decision to the hands of this Court.

10. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

11. The afore-narrated facts are not in dispute. The issue now would be, **whether the investigation should be entrusted to an independent agency like the CBI or otherwise?**

12. The incident that led to registration of crime is a matter of record. A complaint comes to be registered by the de-facto complainant on the date of the incident i.e., on 23-10-2023. The complaint reads as follows:

“ರವರಿಗೆ,

ಪೊಲೀಸ್ ನಿರೀಕ್ಷಕರು

ಶ್ರೀನಿವಾಸಪುರ ಪೊಲೀಸ್ ಠಾಣೆ

ಶ್ರೀನಿವಾಸಪುರ

ರವರಿಂದ

ಅಮರ್‌ನಾಥ್ ಎಸ್ ಬಿನ್ ಸೀನವ್ವ 33 ವರ್ಷ

ಆದಿ ಕರ್ನಾಟಕ ಜನಾಂಗ, ಚಾಲಕ ಕೆಲಸ

ದಯಾನಂದ ರಸ್ತೆ ಶ್ರೀನಿವಾಸಪುರ ಟೌನ್

ಮೊ.ನಂ. 8618199968

ಮಾನ್ಯರೇ,

ಮೇಲ್ಕಂಡ ವಿಳಾಸದ ಖಾಯಂ ವಾಸಿಯಾದ ನಾನು ತಮ್ಮಲ್ಲಿ ದೂರು ಸಲ್ಲಿಸಿಕೊಳ್ಳುವುದೇನೆಂದರೆ ನಾನು ಶ್ರೀನಿವಾಸಪುರ ಟೌನ್ ನ ಕೌನ್ಸಿಲರ್ ಶ್ರೀನಿವಾಸ ರವರ ಬಳಿ ಗಾರೆ ಕೆಲಸ ಮತ್ತು ಚಾಲಕ ಕೆಲಸ ಮಾಡಿಕೊಂಡು ಇರುತ್ತೇನೆ. ಎಂದಿನಂತೆ ಈ ದಿನ ದಿನಾಂಕ 23/10/2023 ರಂದು ನಾನು ಕೆಲಸಕ್ಕೆಂದು ಶ್ರೀನಿವಾಸ ರವರ ಮನೆಯಾದ ಜಾಕಿರ್ ಹುಸೇನ್ ಮೊಹಲ್ಲ ಬಳಿ ಹೋದೆ. ಆಗ ಶ್ರೀನಿವಾಸ ರವರು ಮುಳಬಾಗಿಲು ರಸ್ತೆಯಲ್ಲಿ ನಿರ್ಮಾಣ ಮಾಡುತ್ತಿದ್ದ ಹೂಸ ಕಟ್ಟಡ ಮತ್ತು ಹೊಗಳಿಗೆರೆ ರಸ್ತೆಯಲ್ಲಿ ಇರುವ ಅರಣ್ಯ ಪ್ರದೇಶದಲ್ಲಿ ಕಟ್ಟಿದ್ದ ಕಟ್ಟಡ ಅರಣ್ಯ ಇಲಾಖೆಯವರು ತಳ್ಳಿದ್ದು ಅಲ್ಲಿ ಕೂಲಿಯವರಿಂದ ಇಟ್ಟಿಗೆಗಳನ್ನು ಸಾಗಿಸುತ್ತಿದ್ದ ಕೆಲಸದ ಬಗ್ಗೆ ವಿಚಾರಿಸಿದರು. ನಾನು ಇನ್ನೂ ಸ್ವಲ್ಪ ಕೆಲಸ ಇದೆ ಆಗ ಕೆಲಸ ನಡಿತಾ ಇದೆ ಎಂದು ತಿಳಿಸಿದೆ. ಅದರಂತೆ ಶ್ರೀನಿವಾಸರವರು ಸರಿ ನಡಿ ಕೆಲಸವನ್ನು ನೋಡಿಕೊಂಡು ಬರೋಣವೆಂದು ಹೇಳಿ ಬೆಳಿಗ್ಗೆ 11:00 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ಮನೆಯನ್ನು ಬಿಟ್ಟು ಶ್ರೀನಿವಾಸ ರವರ ಕಾರಿನಲ್ಲಿ ಹೊಗಳಿಗೆರೆ ಅರಣ್ಯ ಪ್ರದೇಶದ ಬಳಿ ಹೋಗಿ ಕೆಲಸವನ್ನು ನೋಡಿಕೊಂಡು ನಂತರ ಅಲ್ಲಿಂದ ಮುಳಬಾಗಿಲು ರಸ್ತೆಯ ಹೊಗಳಿಗೆರೆ ಕ್ರಾಸ್ ಬಳಿ ನಡೆಯುತ್ತಿದ್ದ ಹೂಸ ಕಟ್‌ಟಡದ ನಿರ್ಮಾಣ ಬಳಿ ಬಂದೆವು. ಅಲ್ಲಿ ಶ್ರೀನಿವಾಸರವರು ಕಟ್ಟಡದ ನಿರ್ಮಾಣ ಕೆಲಸವನ್ನೆಲ್ಲ ನೋಡಿ ಕಟ್ಟಡದ ಮುಂದೆ ಇದ್ದ ಮಾವಿನ ಮರದ ಕೆಳಗಡೆ ಚೇರ್ ಗಳನ್ನು ಹಾಕಿಕೊಂಡು ಮಧ್ಯಾಹ್ನ ಸುಮಾರು 12:15 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ನಾನು ಮತ್ತು ಶ್ರೀನಿವಾಸರವರು ಕೃಷ್ಣ ಬಿನ್ ಈರಪ್ಪ ದಯಾನಂದ ರಸ್ತೆ ಹಾಗೂ ಕಟ್ಟಡದ ಸೆಕ್ಯೂರಿಟಿ ನಾವು ನಾಲ್ಕು ಜನ ಟೀ ಕುಡಿದುಕೊಂಡು ಮಾತನಾಡುತ್ತಿದ್ದೆವು. ಗೇಟಿನ ಬಳಿ ರಾಜೇಶ್ ನಿಂತಿದ್ದನು. ಆಗ ಒಂದು ಬಿಳಿ ಬಣ್ಣದ ಪಲ್ನರ್ ಮತ್ತು ಒಂದು ಸ್ಟೆಂಡರ್ ಬೈಕ್ ಗಳಲ್ಲಿ ಒಂದೊಂದು ಗಾಡಿಯಲ್ಲಿ ಮೂರು ಮೂರು ಜನ ಒಟ್ಟು 6 ಜನ ಬಂದಿದ್ದು ಅವರಲ್ಲಿ ಒಬ್ಬ ಸಿಮೆಂಟ್ ಚೀಲದಂತೆ ಬಿಳಿ ಬಣ್ಣದ ಚೀಲದಿಂದ ಏನೋ ಎತ್ತುಕೊಂಡು ಶ್ರೀನಿವಾಸ ರವರ ಬಳಿ ಬಂದು ಅವರಲ್ಲಿ ಒಬ್ಬ ಅಂಕಲ್ ಚೆನ್ನಾಗಿದ್ದೀರ ಎಂದು ಮಾತನಾಡಿಸಿಕೊಂಡು ಶೇಕ್ ಹ್ಯಾಂಡ್ ನೀಡಿದ ಅವರಲ್ಲಿ ಮತ್ತೊಬ್ಬ ಯಾವುದೋ ಸ್ತ್ರೀಯನ್ನು ಶ್ರೀನಿವಾಸ ರವರ ಮುಖಕ್ಕೆ ಸ್ಪೃಷ್ಠೆ ಮಾಡಿದ್ದು ಸಡನ್ ಆಗಿ ಎಲ್ಲರೂ ಚೀಲದಿಂದ ಚಾಕು, ಲಾಂಗು, ತಲ್ವಾರ್‌ಗಳನ್ನು ತೆಗೆದು ಶ್ರೀನಿವಾಸ್ ಮತ್ತು ನಮ್ಮ ಮೇಲೆ ಹಲ್ಲೆ ಮಾಡಲು ಬಂದರು ಅಷ್ಟರಲ್ಲಿ ನಾನು ತಪ್ಪಿಸಿಕೊಳ್ಳಲು ಸ್ವಲ್ಪ ದೂರ ಓಡಿಕೊಂಡು ತಿರುಗಿ ನೋಡುವಷ್ಟರಲ್ಲಿ ಶ್ರೀನಿವಾಸ್ ರವರಿಗೆ ಚಾಕು, ಲಾಂಗ್, ತಲ್ವಾರ್ ಗಳಿಂದ ದಾಳಿ ಮಾಡಿ ತಲೆಗೆ ಹೊಟ್ಟೆಗೆ ಮತ್ತು ದೇಹದ ಇತರೆ ಭಾಗಗಳಲ್ಲಿ ಕೊಚ್ಚಿ, ಚುಚ್ಚಿ ಬೀಳಿಸಿದರು. ನನ್ನನ್ನು ಕೊಲೆ ಮಾಡಲು ಬಂದರು ನಾವು ಅಲ್ಲಿಂದ ಸ್ವಲ್ಪ ದೂರ ಓಡಿ ಹೋಗಿ ಕಿರುಚಿಕೊಂಡೆನು. ಅಷ್ಟರಲ್ಲಿಯೇ ಅವರ ಅಲ್ಲಿಂದ ಓಡಿ ಹೋಗಿ ಅವರು ತಂದಿದ್ದ ಬೈಕ್ ಗಳಲ್ಲಿ ಹೊರಟು ಹೋದರು. ಶ್ರೀನಿವಾಸ ರವರಿಗೆ ಹಲ್ಲೆ ಮಾಡಿದವರಲ್ಲಿ ನನಗೆ ಪರಿಚಯವಿರುವ ಚಂದನ್, ರೇವಂತ್ ಮತ್ತು ಗೌತಮ್ ಇದ್ದು ಉಳಿದ ಮೂವರ ಹೆಸರುಗೊತ್ತಿಲ್ಲ ಅದರೆ ಇವರೆಲ್ಲರೂ ವೇಣುಗೋಪಾಲ್ ರವರ ಜೊತೆ ಇರುತ್ತಿದ್ದು ನನಗೆ ಗೊತ್ತು. ನಂತರ ನಾನು ಕೃಷ್ಣ & ರಾಜಶೇಖರ್ ರವರು, ಮಂಜುನಾಥ್ ಮತ್ತು ಪ್ರದೀಪ್ ರವರಿಗೆ ಫೋನ್ ಮಾಡಿ ಸ್ಥಳಕ್ಕೆ ಕರೆಸಿಕೊಂಡು ನಾವೆಲ್ಲರೂ ರಕ್ತದ ಮಡುವಿನಲ್ಲಿದ್ದ ಶ್ರೀನಿವಾಸ ರವರನ್ನು ಶ್ರೀನಿವಾಸ ರವರ ಕಾರಿನಲ್ಲಿ ಶ್ರೀನಿವಾಸಪುರ ಸರ್ಕಾರಿ ಆಸ್ಪತ್ರೆ ಯಲ್ಲಿ ಚಿಕಿತ್ಸೆಗೆ ದಾಖಲಿಸಿದ್ದೆವು ಅಲ್ಲಿನ ವೈದ್ಯರು ಚಿಕಿತ್ಸೆ ನೀಡಿ ಹೆಚ್ಚಿನ ಚಿಕಿತ್ಸೆಗಾಗಿ ಕೋಲಾರ ಆರ್. ಎಲ್. ಜಾಲಪ್ಪ ಆಸ್ಪತ್ರೆಗೆ ಕರೆದುಕೊಂಡು ಹೋಗಲು ತಿಳಿಸಿದ್ದು ಅದರಂತೆಯೇ ಆಂಬುಲೆನ್ಸ್ ನಲ್ಲಿ ಕೋಲಾರ ಆರ್.ಎಲ್.ಜಾಲಪ್ಪ ಆಸ್ಪತ್ರೆಗೆ ಕರೆದುಕೊಂಡು ಹೋದರು. ನಾನು ಅಲ್ಲೇ ಇದ್ದೆ. ನಂತರ ರಾಜೇಶ್ ರವರ ಮೂಲಕ ತಿಳಿಯಲಾಗಿ ಶ್ರೀನಿವಾಸರವರು ಆರ್ ಎಲ್ ಜಾಲಪ್ಪ ಆಸ್ಪತ್ರೆಯಲ್ಲಿ

ಚಿಕಿತ್ಸೆಗೆ ದಾಖಲಿಸಿದಾಗ ವೈದ್ಯರು ಪರಿಶೀಲಿಸಿ ಮಧ್ಯಾಹ್ನ 01:50 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ಶ್ರೀನಿವಾಸ್ ರವರು ಮೃತಪಟ್ಟಿರುವುದಾಗಿ ತಿಳಿಸಿದರು ಎಂದು ಮಾಹಿತಿ ನೀಡಿದರು. ಜನಜೀವನಪಾಳ್ಯದ ವೇಣುಗೋಪಾಲ್ ರವರಿಗೆ ಶ್ರೀನಿವಾಸನ್ ರವರೊಡನೆ ಇದ್ದ ದ್ವೇಷದಿಂದ ವೇಣುಗೋಪಾಲ್ ರವರ ಮೇಲಿನ ಚಂದನ್, ರೇವಂತ್, ಗೌತಮ್ ಮತ್ತು ಇತರ ಮೂವರೊಡನೆ ಸೇರಿ ಒಳಸಂಚು ರೂಪಿಸಿ ಶ್ರೀನಿವಾಸ್ ರವರ ಮೇಲೆ ಚಾಕು, ಲಾಂಗ್, ತಲ್ವಾರ್ ಗಳಿಂದ ದಾಳಿ ಮಾಡಿ ಕೊಲೆ ಮಾಡಿ ನನ್ನನ್ನು ಸಹ ಸಾಯಿಸುವ ಉದ್ದೇಶದಿಂದ ಲಾಂಗ್, ಚಾಕು, ತಲ್ವಾರ್ ದಿಂದ ಹಲ್ಲೆ ಮಾಡಲು ಬಂದ ಇವರೆಲ್ಲರ ಮೇಲೆ ಕಾನೂನು ಕ್ರಮ ಜರುಗಿಸಬೇಕೆಂದು ತಮ್ಮಲ್ಲಿ ಕೋರುತ್ತೇನೆ.

ತಮ್ಮ ವಿಶ್ವಾಸಿ

ದಿನಾಂಕ 23/10/23 ರಂದು ಮಧ್ಯಾಹ್ನ 02:15 ಗಂಟೆಗೆ ಪಿರಾದಿದಾರರು ಠಾಣೆಗೆ ಹಾಜರಾಗಿ ನೀಡಿದ ಲಿಖಿತ ದೂರನ್ನು ಪಡೆದು ಠಾಣಾ CR.No. 372/2023 ಕಲಂ 302, 307, 120B IPC ರೀತ್ಯಾ ಕೇಸು ದಾಖಲಿಸಿರುತ್ತೆ.”

(Emphasis added)

The complaint narrates gory details of a blood stained assault upon M.Srinivas who dies succumbing to the injuries. This becomes a crime, in Crime No.372 of 2023. Investigation commences. Demand for change of investigating agency from local Police to some other agency is made. The petitioner who is the wife of the deceased also submits a representation. It is then the investigation comes to be transferred to the Crime Investigation Department – the CID. The learned senior counsel for the petitioner and the Special Public Prosecutor have taken me through the records and have projected several lacunae in the investigation both by the local Police and the CID. I deem it appropriate to notice those lacunae.

THE GLARING LACUNAE IN THE INVESTIGATION BY BOTH, THE JURISDICTIONAL POLICE AND THE CID:

13. The complaint quoted *supra* discloses presence of eye witnesses, CWs-2, 3 and 17 who were present at the incident. The incident happens on 23-10-2023. Section 161 statements of those eye witnesses were recorded on 28-10-2023, **after a delay of 5 days**. CW-4 is a *res-gestae* witness. His statement is also recorded **after 5 days**. The statements under Section 164 Cr.P.C., of CWs-1 and 2 were recorded on 08-11-2023, **after a delay of 16 days**. No other witness statement is taken by the Investigating Officer. Statement of eye witness, CW-3 reads as follows:

“ನಾನು ಈ ಮೇಲ್ಕಂಡ ವಿಳಾಸದಲ್ಲಿ ವಾಸವಾಗಿದ್ದು ಈ ಹಿಂದೆ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಬಳ್ಳಾರಿಯಲ್ಲಿ ಸೆಕ್ಯೂರಿಟಿ ಆಗಿ ಕೆಲಸ ಮಾಡುತ್ತಿದ್ದೆ. ನನ್ನ ದೂರದ ಸಂಬಂಧಿ ರಾಮು ಪರ್ಜಾ, ರವರು ಕೋಲಾರ ಜಿಲ್ಲೆಯ ಶ್ರೀನಿವಾಸಪುರ ಟೌನ್ ನ ಶ್ರೀನಿವಾಸನ್ ರವರ ಅಳಿಯ ಭಾಸ್ಕರ್ ರವರ ಬಳಿ ಕೆಲಸ ಮಾಡುತ್ತಿದ್ದು ಈಗ ಸುಮಾರು ಮೂರು ತಿಂಗಳ ಹಿಂದೆ ನನ್ನನ್ನು ಶ್ರೀನಿವಾಸಪುರಕ್ಕೆ ಕರೆಸಿಕೊಂಡು ಶ್ರೀನಿವಾಸನ್ ರವರು ಶ್ರೀನಿವಾಸಪುರ ಟೌನ್ ಹೊಗಳಗೆರೆ ಕ್ರಾಸ್ ನಲ್ಲಿ ಹೊಸದಾಗಿ ಕಟ್ಟುತ್ತಿರುವ ಕಟ್ಟಡದಲ್ಲಿ ಸೆಕ್ಯೂರಿಟಿ ಗಾರ್ಡ್ ಆಗಿ ನೇಮಕ ಮಾಡಿದ್ದು ನಾನು ಕಚ್ಚೆಡದ ಒಂದು ರೂಂ ನಲ್ಲಿ ವಾಸವಾಗಿದ್ದೆ.

ದಿ:23.10.2023 ರಂದು ಬೆಳಿಗ್ಗೆ ನಾನು ಎದ್ದು ಸ್ನಾನ ಮಾಡಿ ಅಡುಗೆ ಮಾಡಿ ತಿಂದು ಕಟ್ಟಡದ ಶೆಟರ್ ಬಾಗಿಲನ್ನು ಮುಂದಕ್ಕೆ ಎಳೆದುಕೊಂಡು ಹಳೆ ಬಿಲ್ಡಿಂಗ್ ಬಳಿ ಇರುವ ಪ್ಯಾನಲ್ ಬೋರ್ಡ್ ಬಳಿ ಇದ್ದೆ, ಮಧ್ಯಾಹ್ನ, ಸುಮಾರು 12:04 ನಿಮಿಷಕ್ಕೆ ಶ್ರೀನಿವಾಸನ್ ರವರು ನನ್ನ ಮೊಬೈಲ್ ಗೆ ಕರೆ ಮಾಡಿ ಎಲ್ಲಿದ್ದೀಯಾ ಶೆಟರ್ ಮುಂದಕ್ಕೆ ಹಾಕಿಕೊಂಡು ಹೋಗಿದ್ದೀಯಾ ಬಾ ಎಂದು ಕರೆವರು, ಹಳೆ ಬಿಲ್ಡಿಂಗ್ ಬಳಿ ಇರುವ ಪ್ಯಾನಲ್ ಬೋರ್ಡ್ ಬಳಿ ಇದ್ದೇನೆ ಎಂದು ಹೇಳಿ ಅಲ್ಲಿಂದ ಬಂದೆ, ಶ್ರೀನಿವಾಸನ್ ರವರು ಚೇರುಗಳನ್ನು ತೆಗೆದುಕೊಂಡು ಹೋಗಿ ಕಾಂಪೌಂಡ್ ನಲ್ಲಿರುವ ಮಾವಿನ ಮರಗಳ ಕೆಳಗಡೆ ಹಾಕಿದೆ. ಶ್ರೀನಿವಾಸನ್ ರವರ ಜೊತೆಯಲ್ಲಿ,

ಅಮರ್ ನಾಥ್ ರವರು ಸಹ ಇದ್ದು ಅಷ್ಟರಲ್ಲಿ ಕೃಷ್ಣಾ ರವರು ಟೀ ತೆಗೆದುಕೊಂಡು ಅಲ್ಲಿಗೆ ಬಂದರು ಕೃಷ್ಣಾ ರವರು ಮೊದಲಿಗೆ ಕಪ್ ನಲ್ಲಿ ಟೀ ಹಾಕಿ ಶ್ರೀನಿವಾಸನ್ ರವರಿಗೆ ಕೊಟ್ಟರು, ಶ್ರೀನಿವಾಸನ್ ರವರು ಚೇರ್ ಮೇಲೆ ಕುಳಿತುಕೊಂಡು ಟೀ ಕುಡಿಯುತ್ತಿದ್ದರು, ನಂತರ ಕೃಷ್ಣಾ ನನಗೆ ಮತ್ತು ಅಮರ್ ನಾಥ್ ರವರಿಗೆ ಟೀ ಕೊಟ್ಟು, ತಾನು ಟೀ ಹಾಕಿಕೊಂಡು ಅಮರ್ ನಾಥ್ ಮತ್ತು ಕೃಷ್ಣಾ ರವರು ಚೇರ್ ಮೇಲೆ ಕುಳಿತುಕೊಂಡು ಟೀ ಕುಡಿದುಕೊಂಡು ಶ್ರೀನಿವಾಸನ್ ರವರೊಂದಿಗೆ ಮತನಾಡುತ್ತಿದ್ದರು ನಾನು ಅಲ್ಲೆ ನಿಂತು ಕೊಂಡು ಟೀ ಕುಡಿಯುತ್ತಿದ್ದಾಗ ಎರಡು ಬೈಕ್ ಗಳಲ್ಲಿ ಒಂದರಲ್ಲಿ ಮೂವರು, ಇನ್ನೊಂದರಲ್ಲಿ ಇಬ್ಬರು ಒಟ್ಟು ಐದು ಜನರು ನನಗೆ ಅಪರಿಚಿತ ವ್ಯಕ್ತಿಗಳಾಗಿದ್ದು, ಕಾಂಪೌಂಡ್ ಒಳಗೆ ಬಂದು ಬೈಕುಗಳನ್ನು ನಿಲ್ಲಿಸಿ ಆ ವೈಕಿ ಒಬ್ಬ ವ್ಯಕ್ತಿ ಶ್ರೀನಿವಾಸನ್ ರವರಿಗೆ ಶೇಕ್ ಹ್ಯಾಂಡ್ ಕೊಟ್ಟಿದ್ದು, ಇನ್ನೊಬ್ಬ ವ್ಯಕ್ತಿ ಆತನ ಜೋಬಿನಿಂದ ಸ್ಟ್ರೀ ಬಾಟಲ್ ತೆಗೆದು ಶ್ರೀನಿವಾಸನ್ ರವರ ಮುಖಕ್ಕೆ ಹೊಡೆದಿದ್ದು, ಅವರು ಚೇರ್ ನಿಂದ ಮೇಲಕ್ಕೆ ಎದ್ದೇಳುವಷ್ಟರಲ್ಲಿ, ಕಾಂಪೌಂಡ್ ಒಳಕ್ಕೆ ಬಂದಿದ್ದವರು ನಮಗೆ ಸ್ಟ್ರೀ ಹೊಡೆಯಲು ಬಂದಿದ್ದು ನಾವು ಹೆದರಿಕೊಂಡು ಸ್ವಲ್ಪ ದೂರ ಹೋಗಿ ತಿರುಗಿ ನೋಡಲಾಗಿ ಕಾಂಪೌಂಡ್ ಆಚೆಯಿಂದ ಒಬ್ಬ ವ್ಯಕ್ತಿ, ಜಂಪ್ ಮಾಡಿಕೊಂಡು ಒಳಕ್ಕೆ ಬಂದು ಆತನ ಕೈಯಲ್ಲಿದ್ದ ಆಯುಧದಿಂದ ಶ್ರೀನಿವಾಸನ್ ರವರ ತಲೆಗೆ ಹೊಡೆದು ರಕ್ತಗಾಯ ಪಡಿಸಿದ್ದು, ಕಾಂಪೌಂಡ್ ಒಳಗೆ ಬಂದಿದ್ದ ಮೂರು ಜನ ಚೀಲದಲ್ಲಿ ತಂದಿದ್ದ ಮೂರು ತಲವಾರುಗಳನ್ನು ತೆಗೆದುಕೊಂಡು ಅದರಲ್ಲಿ ಒಬ್ಬ ನಮ್ಮನ್ನು ಅಟ್ಟಿಸಿಕೊಂಡು ಬಂದಿದ್ದು ಇನ್ನಿಬ್ಬರು ತಲ್ವಾರ್‌ಗಳಿಂದ ಶ್ರೀನಿವಾಸನ್ ರವರ ತಲೆಗೆ ಮತ್ತು ಮೈ ಮೇಲೆ ಚುಚ್ಚಿದರು. ನಾವು ದೂರದಿಂದ ಗಮನಿಸುತ್ತಿದ್ದೆವು. ಅಷ್ಟರಲ್ಲಿ ಕೃಷ್ಣಾ ರವರು ಶ್ರೀನಿವಾಸನ್ ರವರ ಅಣ್ಣನ ಮಗ ರಾಜೇಶ್ ರ ವರೆಗೆ ಫೋನ್ ಮಾಡಿದ್ದು ಅವರು ಸ್ಥಳಕ್ಕೆ ಬರುವಷ್ಟರಲ್ಲಿ ಕಾಂಪೌಂಡ್ ಹಾರಿ ಬಂದಿದ್ದ ವ್ಯಕ್ತಿ ಪುನಃ ಕಾಂಪೌಂಡ್ ಜಂಪ್ ಮಾಡಿಕೊಂಡು ಹೋದ, ಉಳಿದವರು ಬೈಕ್ ಗಳಲ್ಲಿ ಹೊರಟು ಹೋದರು. ನಂತರ ನಾನು ಕೃಷ್ಣಾ, ಅಮರನಾಥ್ ಸ್ಥಳಕ್ಕೆ ಬಂದು ನೋಡಲಾಗಿ ಶ್ರೀನಿವಾಸನ್ ರವರು ರಕ್ತದ ಮಡುವಿನಲ್ಲಿ ಬಿದ್ದಿದ್ದರು. ಅಲ್ಲಿಗೆ ಮಂಜುನಾಥ ಮತ್ತು ಕಾರ್ ಚಾಲಕ ಪ್ರದೀಪ್ ರವರು ಸಹ ಬಂದಿದ್ದು ಶ್ರೀನಿವಾಸನ್ ರವರನ್ನು ಕಾರಿನಲ್ಲಿ ಹಾಕಿಕೊಂಡು ಶ್ರೀನಿವಾಸಪುರ ಸರ್ಕಾರಿ ಆಸ್ಪತ್ರೆಗೆ ಹೋದರು.

ನಂತರ ರಾಜೇಶ್ ರವರಿಂದ ವಿಷಯ ತಿಳಿಯಲಾಗಿ ಶ್ರೀನಿವಾಸನ್ ರವರನ್ನು ಹೆಚ್ಚಿನ ಚಿಕಿತ್ಸೆಗಾಗಿ ಶ್ರೀನಿವಾಸಪುರ ಸರ್ಕಾರಿ ಆಸ್ಪತ್ರೆಯಿಂದ ಆಂಬುಲೆನ್ಸ್ ನಲ್ಲಿ, ಕೋಲಾರ ಆರ್.ಎಲ್.ಜಾಲಪ್ಪ ಆಸ್ಪತ್ರೆಗೆ ಕರೆದುಕೊಂಡು ಹೋಗಿದ್ದು ವೈದ್ಯರು ಪರೀಕ್ಷಿಸಿ ಮದ್ಯಾಹ್ನ 1-50 ಗಂಟೆಗೆ ಶ್ರೀನಿವಾಸನ್ ರವರು ಮಾರ್ಗ ಮಧ್ಯದಲ್ಲಿ ಮೃತಪಟ್ಟಿರುತ್ತಾರೆಂತೆ ತಿಳಿಸಿದರೆಂದು ತಿಳಿಯಿತು.

ನಂತರ ಕೃತ್ಯದ ಬಗ್ಗೆ ತಿಳಿಯಲಾಗಿ ಶ್ರೀನಿವಾಸನ್ ರವರಿಗೂ ಮತ್ತು ಜಗಜೀವನಪಾಳ್ಯದ ವೇಣುಗೋಪಾಲ್ ರವರಿಗೂ ಹಳೆ ವೈಷಮ್ಯಗಳಿದ್ದು ಹಳೆ ದ್ವೇಷದ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ವೇಣುಗೋಪಾಲ್ ರವರು ಅವರ ಸಂಬಂಧಿ ಸಂತೋಷ್ ಕುಮಾರ್ ಮತ್ತು ಇತರರನ್ನು ಕರೆಸಿಕೊಂಡು ಸಂಚನ್ನು ರೂಪಿಸಿ ಹೊಂಚು ಹಾಕಿ ಶ್ರೀನಿವಾಸನ್ ರವರನ್ನು ದಿನಾಂಕ:23-10-2023 ರಂದು ಮದ್ಯಾಹ್ನ ಸುಮಾರು 12-15 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ತಲ್ವಾರ್ ಗಳಿಂದ ತಲೆಗೆ ಹೊಡೆದು ಮೈಮೇಲೆ ಚುಚ್ಚಿ ಕೊಲೆ ಮಾಡಿರುತ್ತಾರೆ. ಆರೋಪಿಗಳನ್ನು ಪುನಃ ನೋಡಿದರೆ ಗುರ್ತಿಸುತ್ತೇನೆ."

The statement of CW-4 reads as follows:

“ನಾನು ಮೇಲ್ಕಂಡ ವಿಳಾಸದ ವಾಸಿಯಾಗಿದ್ದು, ನಮ್ಮ ತಂದೆ ನಾಗರಾಜಪ್ಪ, ತಾಯಿ ಅಂಜಮ್ಮ ಆಗಿದ್ದು ನಮ್ಮ ತಂದೆ ತಾಯಿಗೆ ನಾವು ಇಬ್ಬರು ಮಕ್ಕಳಿದ್ದು 1ನೇ ಪವನ್ 2ನೇ ನಾನಾಗಿದ್ದು ನಾನು ಈಗ ಸುಮಾರು 4 ವರ್ಷಗಳಿಂದ ಶ್ರೀನಿವಾಸಪುರ ಟೌನ್ ನ ಶ್ರೀನಿವಾಸನ್ @ ಕೌನ್ಸಿಲರ್ ಸೀನಪ್ಪ ರವರ ಬಳಿ ಚಾಲಕನಾಗಿ ಕೆಲಸ ಮಾಡಿಕೊಂಡಿರುತ್ತೇನೆ. ಶ್ರೀನಿವಾಸನ್ ರವರಿಗೂ ಮತ್ತು ಜಗಜೀವನಪಾಳ್ಯದ ವೇಣುಗೋಪಾಲ್ ರವರಿಗೆ 2017 ರಿಂದ ಹಳೇ ವೈಶಮ್ಯಗಳಿರುವುದು ನನಗೆ ಗೊತ್ತು.

ದಿನಾಂಕ:23/10/2023 ರಂದು ನಾನು ಶ್ರೀನಿವಾಸನ್ ರವರಿಗೆ ಸಂಬಂಧಪಟ್ಟಿದ್ದ ಗ್ಯಾಸ್ ಸಿಲಿಂಡರ್ ವಾಹನದಲ್ಲಿ ಗ್ರಾಹಕರಿಗೆ ಗ್ಯಾಸ್ ಸಿಲಿಂಡರ್ ಗಳನ್ನು ವಿತರಣೆ ಮಾಡಲು ಹೋಗಿದೆ. ನಾನು ಗ್ಯಾಸ್ ಸಿಲಿಂಡರ್ ಗಳನ್ನು ಶ್ರೀನಿವಾಸಪುರ ಟೌನ್ ನ ವೇಣು ಶಾಲೆಯ ಬಳಿ ವಿತರಣೆ ಮಾಡುತ್ತಿದ್ದಾಗ ಮದ್ಯಾಹ್ನ ಸುಮಾರು 12-20 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ರಾಜೇಶ್ ರವರು ನನಗೆ ಕರೆ ಮಾಡಿ ಶ್ರೀನಿವಾಸನ್ ರವರನ್ನು ಹೊಗಳಿಗೆರೆ ಕ್ರಾಸ್ ಬಳಿ ಹೊಸದಾಗಿ ನಿರ್ಮಾಣ ಮಾಡುತ್ತಿರುವ ಶ್ರೀನಿವಾಸನ್ ರವರ ಕಟ್ಟಡದ ಕಾಂಪೌಂಡ್ ನಲ್ಲಿ ಯಾರೋ ಹೊಡೆದು ಹಾಕಿದ್ದಾರೆ ಬೇಗ ಬರುವಂತೆ ತಿಳಿಸಿದರು ಅದರಂತೆ ನಾನು ಕೂಡಲೇ ಅಲ್ಲಿಗೆ ಹೋಗಿ ನೋಡಲಾಗಿ ಶ್ರೀನಿವಾಸನ್ ರವರ ತಲೆಗೆ ಮತ್ತು ಮೈಮೇಲೆ ಹರಿತವಾದ ಆಯುಧದಿಂದ ಹೊಡೆದು ತಿವಿರಿರುವ ಗಾಯಗಳಾಗಿ ರಕ್ತದ ಮಡುವಿನಲ್ಲಿ ಬಿದ್ದಿದ್ದರು ಅಲ್ಲಿ, ರಾಜೇಶ್, ಮಂಜುನಾಥ, ಕೃಷ್ಣ, ಅಮರನಾಥ ಮತ್ತು ಸೆಕ್ಯೂರಿಟಿ ರತನ್ ರವರು ಇದ್ದು ಕೂಡಲೇ ನಾವು ಶ್ರೀನಿವಾಸನ್ ರವರನ್ನು ಅವರ ಬ್ರೀಜಾ ಕಾರಿನಲ್ಲಿ ಹಾಕಿಕೊಂಡು ಶ್ರೀನಿವಾಸಪುರ ಸರ್ಕಾರಿ ಆಸ್ಪತ್ರೆಗೆ ಹೋಗಿದ್ದು ವೈದ್ಯರು ಚಿಕಿತ್ಸೆ ನೀಡಿ ಹೆಚ್ಚಿನ ಕೋಲಾರ ಆರ್ ಎಲ್ ಜಾಲಪ್ಪ ಆಸ್ಪತ್ರೆಗೆ ಕರೆದುಕೊಂಡು ಹೋಗಲು ತಿಳಿಸಿದ್ದು, ನಾನು ರಾಜೇಶ್, ಮಂಜುನಾಥ, ಅಭಿಶೇಕ್, ವೆಂಕಟರತ್ನಮ್ಮ, ಅನಂತ್ ಕುಮಾರ್ ರವರು 108 ಆಂಬುಲೆನ್ಸ್, ನಲ್ಲಿ ಹಾಕಿಕೊಂಡು ಜಾಲಪ್ಪ ಆಸ್ಪತ್ರೆಗೆ ಕರೆದುಕೊಂಡು ಹೋದವು ನಂತರ ವೈದ್ಯರು ಪರೀಕ್ಷಿಸಿ ಸುಮಾರು ಮದ್ಯಾಹ್ನ 1-50 ಗಂಟೆ ಸಮಯದಲ್ಲಿ. ಶ್ರೀನಿವಾಸನ್ ರವರು ಮಾರ್ಗದ ಮಧ್ಯದಲ್ಲಿ ಮತಪಟ್ಟಿರುವುದಾಗಿ ತಿಳಿಸಿದ್ದಾಗಿ ತಿಳಿಸಿದರು.

ನಂತರ ಈ ಕೃತ್ಯದ ಬಗ್ಗೆ ತಿಳಿಯಲಾಗಿ ಶ್ರೀನಿವಾಸನ್ ರವರಿಗೂ ಜಗಜೀವನಪಾಳ್ಯದ ವೇಣುಗೋಪಾಲ್ ರವರಿಗೂ ಹಳೇ ವೈಷಮ್ಯವಿದ್ದು ವೇಣುಗೋಪಾಲ್ ತನ್ನ ಸೋದರ ಸಂಬಂಧಿ ಬಂಗಾರಪೇಟೆ ತಾಲ್ಲೂಕು ಅಜ್ಜಪನಹಳ್ಳಿ ಗ್ರಾಮದ ಸಂತೋಷ್ ಕುಮಾರ್ ರವರ ಮೂಲಕ ಇತರೆ ಹುಡುಗರನ್ನು ಕರೆಸಿಕೊಂಡು ಜಗಜೀವನಪಾಳ್ಯದ ಚಂದನ್, ರೇವಂತ್, ಗೌತಮ್, ರವರೊಂದಿಗೆ ಒಳಸಂಚನ್ನು ರೂಪಿಸಿ ದಿನಾಂಕ 23/10/2023 ರಂದು ಮದ್ಯಾಹ್ನ 12-15 ಗಂಟೆಯಲ್ಲಿ ಶ್ರೀನಿವಾಸನ್ ರವರು ಅವರ ಹೊಸ ಕಟ್ಟಡದ ಮುಂದೆ ಇರುವ ಮಾವಿನ ಮರದ ಕೆಳಗೆ ಕುಳಿತುಕೊಂಡು ಅಮರನಾಥ, ಕೃಷ್ಣ, ರತನ್ ರವರೊಂದಿಗೆ ಇದ್ದಾಗ ಎರಡು ಬೈಕ್ ಗಳಲ್ಲಿ, ಬಂದ 05 ಜನರ ಪೈಕಿ ವೇಣುಗೋಪಾಲ್ ನ ಸಂಬಂಧಿ ಸಂತೋಷ್ ಕುಮಾರ್ ಶ್ರೀನಿವಾಸನ್ ರವರಿಗೆ ಶೇಖ್ ಹ್ಯಾಂಡ್ ನೀಡಿದ್ದು ಮುನೇಂದ್ರ ಸ್ಟ್ರೀ ಹೊಡೆದು ಅವರು ಬೈಕ್ ನಲ್ಲಿ ತಂದಿದ್ದ ತಲ್ವಾರ್ ತೆಗೆದುಕೊಂಡು ಅಲ್ಲಿದ್ದ ಅಮರನಾಥ, ಕೃಷ್ಣ, ರತನ್ ರವರನ್ನು ಕೊಲೆ ಮಾಡಲು ಹೋಗಿದ್ದರಿಂದ ಅವರು ಸ್ವಲ್ಪ ದೂರ ಹೋಗಿದ್ದು ಅಷ್ಟರಲ್ಲಿ ಕಾಂಪೌಂಡ್ ಆಚೆ ಹೊಂಚು ಹಾಕಿಕೊಂಡಿದ್ದ ವೇಣುಗೋಪಾಲ್

ಕಾಂಪೌಂಡ್ ಹಾರಿ ಒಳಗೆ ಬಂದು ಆತನ ಕೈಯಲ್ಲಿದ್ದ ತಲ್ವಾರ್ ನಿಂದ ಶ್ರೀನಿವಾಸನ್ ರವರ ತಲೆಗೆ ಹೊಡೆದು ರಕ್ತಗಾಯಗೊಳಿಸಿದ್ದು ಅಷ್ಟರಲ್ಲಿ ಸಂತೋಷ್ ಕುಮಾರ್, ಮುನೇಂದ್ರ ರವರುಗಳು ತಲ್ವಾರ್ ಗಳಿಂದ ಶ್ರೀನಿವಾಸನ್ ರವರ ತಲೆಗೆ ಹೊಡೆದು ದೇಹದ ಮೇಲೆ ಚುಚ್ಚಿ ಕೊಲೆ ಮಾಡಿ ಹೊರಟು ಹೋದರೆಂತೆ ತಿಳಿಯಿತು.”

The statement of the accused is taken, who would also narrate certain details. What is germane to be noticed is narration of what happens on 24-10-2023, the next day. It reads as follows:

“.... ದಿನಾಂಕ 24/10/2023 ರಂದು ಬೆಳಗಿನ ಜಾವ ಸುಮಾರು 03-00 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ನಮ್ಮನ್ನು ಹಿಡಿದುಕೊಳ್ಳಲು ಪ್ರಯತ್ನಿಸಿದಾಗ ನಮ್ಮ ಬಳಿ ಇಟ್ಟುಕೊಂಡಿದ್ದ ಚಾಕುಗಳಿಂದ ಹಲ್ಲೆ ಮಾಡಿ ತಪ್ಪಿಸಿಕೊಳ್ಳಲು ಪ್ರಯತ್ನಿಸಿದಾಗ ನನಗೆ ಮತ್ತು ಇನ್ನೊಂದು ಕಡೆ ಓಡಿ ಹೋದ ಮುನೇಂದ್ರನಿಗೆ ಕಾಲುಗಳಿಗೆ ಗುಂಡು ಹಾರಿಸಿ ಪೊಲೀಸರು ನಮ್ಮನ್ನು ವಶಕ್ಕೆ ಪಡೆದುಕೊಂಡು ಸಂತೋಷ್ ಕುಮಾರ್ ನನ್ನು ಓಡುವಾಗ ಮರ ಎದೆಗೆ ತಗುಲಿ ಗಾಯಗೊಂಡಿದ್ದು ಮೂವರನ್ನು ಪೊಲೀಸರು ಕೋಲಾರ SNR ಆಸ್ಪತ್ರೆಗೆ ದಾಖಲಿಸಿದರು. ಹರ್ಷಿತ್, ಅರುಣ್ ಕುಮಾರ್, ನಾಗೇಂದ್ರನನ್ನು ಸಹ ಪೊಲೀಸರು ಹಿಡಿದು ದಸ್ತಗಿರಿ ಮಾಡಿರುವುದಾಗಿ ತಿಳಿಯಿತು.

ದಿನಾಂಕ 23/10/2023 ರಂದು ರಾತ್ರಿ ನನ್ನ ಮೊಬೈಲ್ ಫೋನ್ ಎಲ್ಲೋ ಬಿದ್ದು ಹೋಗಿರುತ್ತೆ. ಎಲ್ಲಿ ಬಿದ್ದಿದೆ ಎಂದು ನೆನೆಪಿಲ್ಲ. ಮೇಲ್ಕಂಡ ನಾವುಗಳು ಈ ಕೊಲೆ ಮಾಡಲು ಸಂಚು ರೂಪಿಸಿದ ಸ್ಮಶಾನ ಜಾಗವನ್ನು ಮತ್ತು ಶ್ರೀನಿವಾಸನ್ ರವರನ್ನು ಕೊಲೆ ಮಾಡಿದ ಜಾಗವನ್ನು ಮತ್ತು ತಾನು ಕೊಲೆಗೆ ಬಳಸಿದ ತಲ್ವಾರ್ ಅನ್ನು ಹಾಗೂ ಸ್ಮಶಾನದ ಕುಂಟೆಯ ಬಳಿ ಹಾಕಿರುವ ತಲ್ವಾರ್ ಅನ್ನು ನನ್ನ ಜೊತೆ ಬಂದರೆ ಸ್ಥಳ ತೋರಿಸಿ ಎತ್ತಿಕೊಡುತ್ತೇನೆ. ನಾನು ಮೇಲ್ಕಂಡವರ ಜೊತೆ ಸೇರಿ ಸಂಚು ರೂಪಿಸಿ ಶ್ರೀನಿವಾಸನ್ ರವರನ್ನು ಕೊಲೆ ಮಾಡಿರುವುದು ತಪ್ಪಾಗಿರುವುದಾಗಿ ತಪ್ಪೊಪ್ಪಿಕೊಂಡಿರುತ್ತೇನೆ,

ನನ್ನ ಸಮಕ್ಷಮ
ಸಹಿ/-“

ಓದಿಸಿ ಕೇಳಲಾಗಿ ಸರಿಯಿದೆ

Spot mahazar is conducted on 23-10-2023 **without the FSL personnel being in the team.** No incriminating material is collected from the spot. **The mahazar is done in a casual**

manner. The next day the inquest proceedings happen. Eyewitnesses were present at the time of inquest proceedings. No statements are recorded by the Investigating Officer at the time of conduct of inquest proceedings. Accused No.4 tenders his voluntary statement on 24-10-2023. It is his deposition that he along with Accused No.2 tried to escape together after committing the offence and have thrown the talwar into a nearby pond in the agricultural field. **The Investigating Officer does not make any effort to recover the weapon, though accused themselves say that weapon was thrown at that place.** Accused No.4 further deposes that he and accused No.6 after the incident had planned to flee and had parked bike near the K.S.R.T.C bus stand. He has deposed that it was parked on 23-10-2023. The Investigating Officer recovers the same on 18-12-2023 **after 2 months.** On 20-11-2023, **1 month after the incident,** accused No.2 is taken to the pond in the agricultural field where he is said to have thrown the talwar and could not recover the talwar as the soil had settled in the water which was 10 feet deep. This happens only because of callousness in the conduct of investigation.

14. For the incident that happens on 23-10-2023, when the accused themselves say that they have thrown the talwar, the material object in the nearby pond, the first thing the Investigating Officer should have done was to recover the talwar. It was not done so. All the collected documents and material objects during the investigation ought to have been sent to the Magistrate immediately. **It is sent only after 20 days.** The accused themselves admit that they have used talwar and pepper spray. **No recovery is made of any pepper spray from the spot or the instrument.** Accused No.5 tenders his statement about the place where all the accused sat, consumed alcohol, conspired to do away the life of M.Srinivas on the previous day. **Despite this voluntary statement, mahazar of the said place i.e., SLV bar is done only after 14 days i.e., on 10-11-2023.** The most important evidence would be CCTV footage at the SLV bar. This is not seen/secured despite statements of accused Nos. 5, 8 and 9 were recorded 10 days prior to the mahazar. Accused No.8 also points at the place of conspiracy. No mahazar is drawn immediately. Same goes with the statement of accused No.9. Accused Nos. 1 to 3 were taken into custody from the Hospital on 08-11-2023. They narrate

the place and the place where they hatched further conspiracy - a grave yard. Spot mahazar is done **after 10 days**. Few of the talwars were seized at the instance of the accused on 24-10-2023. They were sent to FSL only on 04-11-2023, **10 days after the seizure**. Clothes of the accused which were said to be blood stained have not been seized at all.

15. Though accused 1 to 3 were taken into custody from the Hospital on 08-11-2023, the vehicles they used were seized only on 18-11-2023, 10 days thereafter. After the conduct of the aforesaid shoddy investigation by the local Police, owing to demand, the matter was transferred to the CID. The CID did nothing better. After the CID took over the investigation, test identification parade ought to have been done. It is done **after 45 days of the incident**. The accused themselves give consent for a polygraph test on 30-12-2023 after the CID took over the investigation. Till the filing of the charge sheet no polygraph test is conducted. The CID Police would go a step further. They go to the pond again in an effort to recover the talwar. The talwar is then recovered by the

CID, which the local Police had reported that it was missing, and could not be recovered.

16. The CID Police make an effort to resolve the problem of absolutely shoddy investigation of the local police, by another shoddy investigation. The common lapses in both the investigations are that none of the mahazars that are done are videographed as is necessary in law; No blood test of any of the accused is conducted, as the body of the accused and their clothes were all blood stained; No investigation takes place to trace the movement of the accused prior to the incident; The mobile phones of accused 1 to 8 are even to-day missing; The CDRs are not collected; It is only after a direction at the hands of this Court the CDRs are secured; The tower dumps of places where the accused moved prior to the incident have not been taken; The two seized talwars were sent to FSL only by the CID. It is based upon the aforesaid shoddy investigation. The petitioner, wife of deceased submits a representation to the Chief Minister to transfer the investigation to the hands of the CBI. The same representation is again repeated on 26-07-2024 when no action is taken on the

earlier representation. The representation dated 26-07-2024 reads as follows:

“ರವರಿಂದ

ಡಾ. ಚಂದ್ರಕಲಾ ಕೋಂ ಲೇಟ್ ಎಂ. ಶ್ರೀನಿವಾಸನ್.
ಬೃಂದಾವನ ನಿಲಯ. ಪಾಲಿಟೆಕ್ನಿಕ್ ರಸ್ತೆ,
ಶ್ರೀನಿವಾಸಪುರ ಟೌನ್,
ಕೋಲಾರ ಜಿಲ್ಲೆ – 563 135.

ರವರಿಗೆ:

ಸನ್ಮಾನ್ಯ ಶ್ರೀ ಸಿದ್ಧರಾಮಯ್ಯನವರು,
ಮಾನ್ಯ ಮುಖ್ಯ ಮಂತ್ರಿಗಳು,
ಕರ್ನಾಟಕ ಸರ್ಕಾರ,
ವಿಧಾನಸೌಧ, ಬೆಂಗಳೂರು .

ವಿಷಯ: ಕೋಲಾರ ಜಿಲ್ಲೆ ಶ್ರೀನಿವಾಸಪುರ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ದಾಖಲಾಗಿರುವ ಮಕದ್ದಮೆ ಸಂಖ್ಯೆ:372/2023 ಕಲಂ 120:109, 212,307, 302, 202 ಸಹವಾಚಕ 149 ಐ ಪಿ ಸಿ ಮತ್ತು ಕಲಂ 3(2(ತ), 3(2)(ತ)(ಚಿ) ಎಸ್/ಎಸ್ಪಿ, ಆಕ್ಟ್ 1986 ಪ್ರಕರಣದಲ್ಲಿ ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿ ಸಲ್ಲಿಸಲಾಗಿದ್ದು. ಪ್ರಕರಣದ ಮುಂದುವರಿದ ತನಿಖೆಯನ್ನು ಸಿಬಿಐ ಗೆ ವರ್ಗಾಯಿಸುವಂತೆ ಕೋರಿರುವ ದಿನಾಂಕ 2-3-2024 ರ ಅರ್ಜಿಯ ಜ್ಞಾಪನ ಕೋರಿಕೆ ಪತ್ರ.

ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ತಮಗೆ ತಿಳಿಸುವುದೇನೆಂದರೆ, ನಾನು ಮೃತ ಎಂ. ಶ್ರೀನಿವಾಸ್, ಮಾಜಿ ಜಿಲ್ಲಾ ಪಂಚಾಯಿತಿ ಅಧ್ಯಕ್ಷರು, ಕೋಲಾರ ಜಿಲ್ಲೆ ರವರ ಪತ್ನಿಯಾಗಿದ್ದು, ವೃತ್ತಿಯಲ್ಲಿ ವೈದ್ಯೆಯಾಗಿರುತ್ತೇನೆ. ದಿನಾಂಕ 23/ 10/ 23 ರಂದು ನನ್ನ ಪತಿಯವರ ಕೊಲೆಯಾಗಿದ್ದು, ಪ್ರಕರಣದ ತನಿಖೆಯನ್ನು ಕೈಗೊಂಡ ಶ್ರೀನಿವಾಸಪುರ ಪೊಲೀಸರು. ನಾವು ತಿಳಿಸಿದ ವಿವಿಧ ಆಯಾಮಗಳಲ್ಲಿ ತನಿಖೆಯನ್ನು ನಡೆಸದೆ ಇರುವ ಬಗ್ಗೆ ಕ್ರಮವನ್ನು ಕೈಗೊಂಡು, ಪ್ರಕರಣದ ತನಿಖೆಯನ್ನು ಸಿಬಿಐ ತನಿಖಾ ಸಂಸ್ಥೆಗೆ ನೀಡಬೇಕೆಂದು ಫೀಡಂ ಪಾರ್ಕ್ ಬೆಂಗಳೂರು ನಲ್ಲಿ ದಿನಾಂಕ 01/12/2023 ರಂದು ಧರಣಿ ನಡೆಸಿ ಸರ್ಕಾರಕ್ಕೆ ಮನವಿ ಸಲ್ಲಿಸಿರುತ್ತೇವೆ. ನನ್ನ ಪತಿಗೆ ಮತ್ತು ನನ್ನ ಕುಟುಂಬಕ್ಕೆ ಆಗಿರುವ ಅನ್ಯಾಯದ ವಿರುದ್ಧ ಹೋರಾಡುವ ಸಲುವಾಗಿ ಸರ್ಕಾರಿ ವೈದ್ಯೆಯಾಗಿ ಸೇವೆಯಲ್ಲಿದ್ದ ನಾನು ಸ್ವ ಇಚ್ಛೆಯಿಂದ 31-3-2024 ರಂದು ನಿವೃತ್ತಿ ಪಡೆದಿರುತ್ತೇನೆ. ಆದರೆ, ನಮ್ಮ ಮನವಿಯನ್ನು ಭಾಗಶಃ ಪುರಸ್ಕರಿಸಿದ ಸರ್ಕಾರ, ಮುಂದಿನ ತನಿಖೆಯನ್ನು

ಸಿಐಡಿ ವಿಶೇಷ ಘಟನೆಗಳು ಮತ್ತು ಆರ್ಥಿಕ ಅಪರಾಧಗಳು, ಬೆಂಗಳೂರು ಇವರಿಗೆ ವರ್ಗಾಯಿಸಿರುತ್ತದೆ. ಸಿಐಡಿ ರವರು ತನಿಖೆಯನ್ನು ಕೈಗೆತ್ತಿಕೊಂಡ ನಂತರ, ತನಿಖಾಧಿಕಾರಿಗಳಿಗೆ ನಾನು ನನ್ನ ಮಗಳು ಡಾಕ್ಟರ್ ನಿಕಿತಾ ಎಸ್. ವಾಸನ್ ಅಳಿಯ ಬಿ. ಆರ್. ಭಾಸ್ಕರ್. ಮತ್ತು ನನ್ನ ಮಗನಾದ ಡಾಕ್ಟರ್ ಕಿಶನ್ ಸೂರ್ಯ ರವರುಗಳ ಹೇಳಿಕೆಗಳನ್ನು ನೀಡಿರುತ್ತೇವೆ. ಸದರಿ ಹೇಳಿಕೆಗಳಲ್ಲಿ ಈ ಕೊಲೆ ಪ್ರಕರಣದಲ್ಲಿ ಈಗಾಗಲೇ ನ್ಯಾಯಾಂಗ ಬಂಧನದಲ್ಲಿರುವ 9 ಜನ ಆರೋಪಿಗಳಲ್ಲದೆ, ಅವರೊಂದಿಗೆ ಸಂಚು ರೂಪಿಸಿ, ಕೊಲೆ ಮಾಡಲು ಆರೋಪಿಗಳಿಗೆ ಧನ ಸಹಾಯ ಮಾಡಿದವರ ಬಗ್ಗೆ ನಮಗೆ ಸಂಶಯವಿರುವ ವ್ಯಕ್ತಿಗಳ ಹೆಸರು, ವಿಳಾಸ ದೂರವಾಣಿ ಸಂಖ್ಯೆಗಳನ್ನು ನೀಡಿರುತ್ತೇವೆ. ಮತ್ತು ನನ್ನ ಯಜಮಾನರು ರಾಜಕೀಯದಲ್ಲಿ ಸಕ್ರಿಯವಾಗಿದ್ದರಿಂದ ಮತ್ತು 2024ರ ಲೋಕಸಭಾ ಚುನಾವಣೆಯಲ್ಲಿ ಕೋಲಾರ ಲೋಕಸಭೆ ಕ್ಷೇತ್ರದಲ್ಲಿ ಸ್ಪರ್ಧಿಸಲು ಟಿಕೆಟ್ ಆಕಾಂಕ್ಷೆಯೂ ಆಗಿದ್ದರಿಂದ ಮತ್ತು ಕೊಲೆ ಆರೋಪಿಗಳಿಗೆ ರಾಜಕಾರಣಿಗಳ ನಿಕಟ ಸಂಪರ್ಕವಿದ್ದುದರಿಂದ, ಈ ಕೊಲೆಯ ಹಿಂದೆ ರಾಜಕೀಯ ವ್ಯಕ್ತಿಗಳ ಸಂಚಿರುವ ಬಗ್ಗೆಯೂ ನಮ್ಮ ಹೇಳಿಕೆಗಳಲ್ಲಿ ತಿಳಿಸಿರುತ್ತೇವೆ.

ಈ ಕೊಲೆ ಪ್ರಕರಣದಲ್ಲಿ ಹಣವಂತರು ಮತ್ತು ಪ್ರಭಾವಿ ವ್ಯಕ್ತಿಗಳ ಕೈವಾಡವಿದ್ದು ಈ ಕೊಲೆಯೊಂದು ಸುಫಾರಿ ಕೊಲೆಯಾಗಿರುವ ಬಲವಾದ ಸಂಶಯವಿರುವುದರಿಂದ ಅವರು ಬಯಲಾಗದೆ ಇರುವುದು ಒಂದು ದುರಂತ ನಮಗೆ ನ್ಯಾಯಸಿಗುವಂತಾಗಲು ಈ ಪ್ರಕರಣವನ್ನು ಸಿಬಿಐ ತನಿಖೆಗೆ ಒಪ್ಪಿಸುವಂತೆ ನಾನು ದಿನಾಂಕ 2-3-2024 ರಂದು ತಮಗೆ ಮನವಿಯನ್ನು ಸಲ್ಲಿಸಿರುತ್ತೇನೆ. ಅದರ ಪ್ರತಿಗಳನ್ನು ಇದರೊಂದಿಗೆ ಲಗತ್ತಿಸಿರುತ್ತೇನೆ. ಅಲ್ಲದೆ ಇಂದಿಗೆ ಕೊಲೆ ಪ್ರಕರಣ ನಡೆದು 9 ತಿಂಗಳು ಕಳೆದರೂ ತನಿಖೆಯು ಪೂರ್ಣ ಪ್ರಮಾಣದಲ್ಲಿ ಕೊನೆಯಾಗಿಲ್ಲ. ದಿನಾಂಕ: 2-3-2024 ರಂದು ನಾನು ತಮಗೆ ಸಲ್ಲಿಸಿದ ಮನವಿ ಪತ್ರದಂತೆ ಆರೋಪಿಗಳ Brain mapping ಗಾಗಿ ಆರೋಪಿಗಳ ಒಪ್ಪಿಗೆಯನ್ನು ಮತ್ತು ನ್ಯಾಯಾಲಯದ ಒಪ್ಪಿಯನ್ನು ಪಡೆದಿರುವುದಾಗಿ ಈಗಾಗಲೇ ಸಿಐಡಿ ಯವರು ಸಲ್ಲಿಸಿರುವ ಜಾರ್ಜ್ ಸೀಟ್ ನಲ್ಲಿ ನಮೂದಿಸಿರುತ್ತಾರೆ. ಆದರೆ ಈ ಒಪ್ಪಿಗೆ ಪಡೆದು ಸುಮಾರು 4-5 ತಿಂಗಳು ಕಳೆದಿದ್ದರೂ ಈ ತನಿಖೆಯನ್ನು ಇನ್ನು ಮಾಡಿರುವುದಿಲ್ಲ. ಆರೋಪಿಗಳ ಸಹಾಯಕರ ಮತ್ತು ನಾವು ದೂರಿನಲ್ಲಿ ಕೊಟ್ಟಿರುವ ವ್ಯಕ್ತಿಗಳ ವಿಚಾರಣೆಗಳು ಪೂರ್ಣವಾಗಿ ಆಗಿರುವುದಿಲ್ಲ. ತನಿಖೆ ವಿಳಂಬ ಆಗುತ್ತಿರುವುದರಿಂದ ನನಗೆ ನನ್ನ ಕುಟುಂಬಕ್ಕೆ ನ್ಯಾಯ ದೊರಕುತ್ತದೆ ಎಂಬ ಭರವಸೆ ಕ್ಷೀಣಿಸುತ್ತಿದೆ. ಮತ್ತು ನನಗೆ, ನನ್ನ ಮಕ್ಕಳಿಗೆ ಮತ್ತು ಕುಟುಂಬಸ್ಥರಿಗೆ ನಮ್ಮ ಯಜಮಾನರನ್ನು ಕಳೆದುಕೊಂಡಿರುವ ನೋವಿನ ಜೊತೆಗೆ ತನಿಖೆ ವಿಳಂಬವಾಗುತ್ತಿರುವುದರಿಂದ ಮಾನಸಿಕ ಹಿಂಸೆ, ನೋವು, ಸಂಕಟ, ಮನೋದೌರ್ಬಲ್ಯ ಉಂಟಾಗುತ್ತಿದೆ. ನನ್ನ ಪತಿಯ ಕೊಲೆಗೆ ನ್ಯಾಯ ದೊರಕುತ್ತದೆ ಎಂಬ ಭರವಸೆ ಕ್ಷೀಣಿಸುತ್ತಿದೆ.

ಆದ್ದರಿಂದ ತಾವು ಈ ಕೊಲೆ ಪ್ರಕರಣದ ತನಿಖೆಯನ್ನು ಸಿಬಿಐಗೆ ಒಪ್ಪಿಸುವ ಅಥವಾ ಒಪ್ಪಿಸದೆ ಇರುವ ಬಗ್ಗೆ, ನನಗೆ ಪತ್ರ (ಹಿಂಬರಹದ ಮುಖೇನ) ತಿಳಿಸಿದರೆ, ನ್ಯಾಯಕ್ಕಾಗಿ ಹೋರಾಡುವ ಮುಂದಿನ ಆಯ್ಕೆಗಳನ್ನು ಗುರುತಿಸಿಕೊಳ್ಳಲು ಅನುವಾಗುತ್ತದೆ ತನಿಖೆ ನಿರ್ಧಾನವಾದಂತೆ. ಸಾಕ್ಷಿ ನಾಶವಾಗುವ ಮತ್ತು ಪ್ರತ್ಯಕ್ಷ ಸಾಕ್ಷಿಗಳಲ್ಲಿ ಭಯ ಹುಟ್ಟಿ, ಅವರುಗಳು ಸಾಕ್ಷಿ ನೀಡಲು ಮುಂದುವರೆಯದೆ, ನ್ಯಾಯಾಲಯಕ್ಕೆ ಬರದೇ ಇರುವ ಸಾಧ್ಯತೆಗಳಿದ್ದು ಇದರಲ್ಲಿ ನಮಗೆ ನ್ಯಾಯ ಸಿಗಬಹುದಾದ ಮಾರ್ಗಗಳು ಕಿರಿದಾಗಿರುವುದರಿಂದ ನಮಗೆ ನ್ಯಾಯ ದೊರಕಬೇಕಾದರೆ ಈ ಪ್ರಕರಣವನ್ನು ಹೆಚ್ಚಿನ ತನಿಖಾ ಸಂಸ್ಥೆಯಾದ ಸಿಬಿಐಗೆ ಕೊಡುವ ಅಥವಾ

ಕೊಡದೆ ಇರುವ ಬಗ್ಗೆ ತಮ್ಮ ನಿರ್ಧಾರವನ್ನು ನಾವು ತಿಳಿದುಕೊಳ್ಳುವ ಅವಕಾಶವನ್ನು ನೀಡಲು ಬಗ್ಗೆ ಈ ಮೂಲಕ ತಮ್ಮಲ್ಲಿ ಸವಿನಯವಾಗಿ ಪ್ರಾರ್ಥಿಸುತ್ತೇನೆ.

ಧನ್ಯವಾದಗಳೊಂದಿಗೆ

ತಮ್ಮ ವಿಶ್ವಾಸಿ
ಸಹಿ/-

ಡಾ. ಚಂದ್ರಕಲಾ

ಸ್ಥಳ: ಶ್ರೀನಿವಾಸಪುರ

(Emphasis added)

17. In the considered view of this Court, whether it is the local Police or the CID, the Investigating Officers of both the agencies have miserably failed to inspire even a semblance of confidence in the conduct of investigation, which erodes public confidence in the conduct of investigation particularly in murder cases. The Special Public Prosecutor, as observed hereinabove, has been candid in accepting the grave lacanue in the investigation, undeniably so, as the CID is no better than the jurisdictional police who had investigated into the matter. The CID is not an independent investigating agency **stricto senso**. It is an investigating wing of the State in which except the detectives in the CID, who were permanent appointees, every other officer is on deputation from the general wing of the Police. It is, therefore

necessary, in the glaring facts and peculiar circumstances, that the investigation be handed over to a different investigating agency, independent enough for conduct of free and fair investigation, which perhaps would be neither shoddy nor lopsided.

THE LAW FROM THE PRISM OF THE APEX COURT:

18. The Apex Court has considered the issue of transfer of investigation in plethora of cases and has transferred and has also declined to transfer again, in plethora of cases. I deem it appropriate to notice the law, where the Apex Court, particularly in cases of murder, has transferred the investigation to CBI on noticing absolutely shoddy investigation conducted by the local Police or the local agencies. The Apex Court has, right from 1992, emphasized this fact of transfer of investigation on the score that victims are not likely to get justice at the hands of local Police. Therefore, to instill public confidence, transfer had become necessary, as the **transfer in every case is done from the hands of the local Police to the CBI.**

18.1. The Apex Court in the case of **GUDALURE M.J.**

CHERIAN v. UNION OF INDIA¹ has held as follows:

"....

7. It is not necessary for us to go into various facts and circumstances mentioned by the petitioners in the writ petition in support of their apprehensions that the investigation in the case by the police was not fair and the victims are not likely to get justice by the authorities in the State of Uttar Pradesh. Four accused persons have been arrested in connection with the crime and the trial against them is likely to commence. The investigation having been completed by the police and charge-sheet submitted to the court, it is not for this Court, ordinarily, to reopen the investigation specially by entrusting the same to a specialised agency like CBI. We are also conscious that of late the demand for CBI investigation even in police cases is on the increase. **Nevertheless — in a given situation, to do justice between the parties and to instil confidence in the public mind — it may become necessary to ask the CBI to investigate a crime. It only shows the efficiency and the independence of the agency.**

8. It is obvious from the affidavit of the Senior Superintendent, Police that the nuns who are victims of the tragedy are not coming forward to identify the culprits in an identification parade to be held by the Magistrate. **The petitioners on the other hand, have alleged that the four persons who have been set up as accused by the police are not the real culprits and the police is asking the sisters to accept the four arrested persons as culprits. In the face of these averments and keeping in view the facts and circumstances of this case, we are of the view that ends of justice would be met if we direct the CBI to hold further investigation in respect of the offences committed between the night of July 12 and 13, 1990 as per the FIR lodged at Police Station, Gajraula.**

¹ (1992) 1 SCC 397

9. We are, however, not inclined to accept the prayer of the petitioners to transfer the criminal case from the file of IX Additional Sessions Judge, Moradabad.

10. We, therefore, direct the CBI to take up the investigation of the case immediately. We further direct the Senior Superintendent Police, Moradabad and the Station House Officer, Gajraula Police Station to assist the CBI in conducting the investigation. The State of Uttar Pradesh through its Chief Secretary and the Home Secretary is further directed to provide all assistance to the CBI in this respect.

(Emphasis supplied)

18.2. Later, the Apex Court in the case of **STATE OF MAHARASHTRA v. SHEELA RAMESH KINI**² has held as follows:

" "

3. The facts speak eloquently in the judgment of the High Court sought to be appealed against. We would scrupulously avoid making mention thereof lest our step in that direction be treated as one of approval or disapproval. Some portions of the High Court's judgment, however, are worth reproduction. These are:

"Having watched progress of the investigation, we have no reason to doubt either the honesty or the integrity of the officers engaged in the investigation. We, however, find that the investigation has now reached a deadlock. We further find that certain vital facts which emerge in the investigation have still remained unanswered. They are:

(i) exact cause of death;

(ii) movements of Ramesh Kini between 8.00 a.m. on 23rd July, 1996 when he left to attend a meeting in the office of *Samna* after he met Advocate Shri Lad at 9.30 a.m.

² (1998) 9 SCC 346

and 10.30 p.m. on the same evening when he was found in Alka Theatre in Pune;

(iii) possibility of death otherwise than by suicide.

We find that the present investigating agency has proceeded to investigate the case only on one hypothesis namely 'suicidal death'. No steps are taken to find out whether this is a case of murder."

Further the High Court has said:

"The present case, it is to be noted, has generated immense amount of public interest. There is, in fact, a public outcry. In the circumstances, we cannot totally ignore the aforesaid facts and circumstances arising in the present case."

And finally, the High Court has gone on to say:

"Having regard to the lacuna in the investigation, which we have noted above, we find that a case is made out to order transfer of investigation to the CBI. We have noticed that investigation has been one-sided and has failed to explore alternate possibilities arising in the investigation. To this extent investigation is found to be faulty. Though no trace of external agency is noticed, possibility of a latent bias on the part of the investigation cannot be totally ruled out."

4. Insofar as the view of the High Court that the crime has generated immense amount of public interest or, in other words, a public outcry and that in a manner a public demand has been made towards transference of the investigation to the CBI, with respect, we do not agree with the High Court. Decisions cannot be made on the verdict of the numbers. A situation of the kind can develop many a time, but courts have to maintain their cool and watch the events with a fair amount of objectivity. And it is not difficult for interested parties sometimes to manipulate mass outcry; highly litigious as our country has emerged to be. Disagreement with that portion of the order, however, does not tell on the other parts of the order which, in our view, does not call for any

dissent on our part; more so, when we have gone through the reports submitted by the CID to the High Court. The impression gathered by the High Court on the basis of those reports was perfectly within its domain and that being so, the impugned order does not require any interference under Article 136 of the Constitution of India. The special leave petitions are, therefore, dismissed."

(Emphasis supplied)

18.3. Further, the Apex Court in the case of **RUBABBUDDIN SHEIKH v. STATE OF GUJARAT**³ has held as follows:

" "

51. Having heard the learned Senior Counsel appearing for the parties and after going through the eight action taken reports submitted by the police authorities before this Court and after considering the decisions of this Court cited at the Bar and the materials on record and considering the nature of offence sought to be investigated by the State police authorities who are themselves involved in such crime, we are unable to accept that the investigation at this stage cannot be handed over to the CBI Authorities or any other independent agency. We have already discussed the decisions cited by Mr Mukul Rohatgi, learned Senior Counsel appearing for the State of Gujarat and have already distinguished the said cases and came to a conclusion that those decisions were rendered when CBI enquiries have already been made and at that stage this Court held that after the charge-sheet is submitted, the CBI Authorities would not be able to approach this Court or the High Court to have issuance of directions from this Court.

52. In *R.S. Sodhi v. State of U.P.* [1994 Supp (1) SCC 143 : 1994 SCC (Cri) 248 : AIR 1994 SC 38] on which reliance was placed by the learned Senior Counsel appearing for the writ petitioner, this Court observed: (SCC pp. 144-45, para 2)

³ (2010)2 SCC 200

"2. ... We have perused the events that have taken place since the incidents but we are refraining from entering upon the details thereof lest it may prejudice any party but we think that *since the accusations are directed against the local police personnel it would be desirable to entrust the investigation to an independent agency like the Central Bureau of Investigation so that all concerned including the relatives of the deceased may feel assured that an independent agency is looking into the matter and that would lend the final outcome of the investigation credibility. However faithfully the local police may carry out the investigation, the same will lack credibility since the allegations are against them.* It is only with that in mind that we having thought it both advisable and desirable as well as in the interest of justice to entrust the investigation to the Central Bureau of Investigation...."

(emphasis supplied)

This decision clearly helps the writ petitioner for handing over the investigation to the CBI Authorities or any other independent agency.

53. It is an admitted position in the present case that the accusations are directed against the local police personnel in which the high police officials of the State of Gujarat have been made the accused. Therefore, it would be proper for the writ petitioner or even the public to come forward to say that if the investigation carried out by the police personnel of the State of Gujarat is done, the writ petitioner and their family members would be highly prejudiced and the investigation would also not come to an end with proper finding and if investigation is allowed to be carried out by the local police authorities, we feel that all concerned including the relatives of the deceased may feel that investigation was not proper and in that circumstances it would be fit and proper that the writ petitioner and the relatives of the deceased should be assured that an independent agency should look into the matter and that would lend the final outcome of the investigation credibility however faithfully the local police may carry out the investigation, particularly when the gross allegations have been made against the high police

officials of the State of Gujarat and for which some high police officials have already been taken into custody.

54. It is also well known that when police officials of the State were involved in the crime and in fact they are investigating the case, it would be proper and interest of justice would be better served if the investigation is directed to be carried out by the CBI Authorities, in that case CBI Authorities would be an appropriate authority to investigate the case.

55. In *Ramesh Kumari v. State (NCT of Delhi)* [(2006) 2 SCC 677: (2006) 1 SCC (Cri) 678] , this Court at para 8 observed: (SCC p. 681)

"8. ... We are also of the view that since there is allegation against the police personnel, the interest of justice would be better served *if the case is registered and investigated by an independent agency like CBI.*"

(emphasis supplied)

56. In *Kashmeri Devi v. Delhi Admn.* [1988 Supp SCC 482: 1988 SCC (Cri) 864: AIR 1988 SC 1323] this Court held that in a case where the police had not acted fairly and in fact acted in partisan manner to shield real culprits, it would be proper and interest of justice will be served if such investigation is handed over to the CBI Authorities or an independent agency for proper investigation of the case. **In this case, taking into consideration the grave allegations made against the high police officials of the State in respect of which some of them have already been in custody, we feel it proper and appropriate and in the interest of justice even at this stage, that is, when the charge-sheet has already been submitted, the investigation shall be transferred to the CBI Authorities for proper and thorough investigation of the case.**

57. In *Kashmeri Devi* [1988 Supp SCC 482 : 1988 SCC (Cri) 864 : AIR 1988 SC 1323] , this Court also observed as follows: (SCC p. 484, para 7)

"7. Since according to the respondents charge-sheet has already been submitted to the Magistrate we direct the trial court before whom the charge-sheet has been

submitted to exercise his powers under Section 173(8) CrPC to direct the Central Bureau of Investigation for proper and thorough investigation of the case. On issue of such direction the Central Bureau of Investigation will investigate the case in an independent and objective manner and it will further submit additional charge-sheet, if any, in accordance with law."

58. In *Gudalure M.J. Cherian* [(1992) 1 SCC 397] , in that case also the charge-sheet was submitted but in spite of that, in view of the peculiar facts of that case, the investigation was transferred from the file of the Sessions Judge, Moradabad to the Sessions Judge, Delhi. In spite of such fact that the charge-sheet was filed in that case, this Court directed CBI to hold further investigation in spite of the offences committed. In this case at p. 400 this Court observed: (SCC para 7)

"7. ... The investigation having been completed by the police and charge-sheet submitted to the court, it is not for this Court, ordinarily, to reopen the investigation specially by entrusting the same to a specialised agency like CBI. We are also conscious that of late the demand for CBI investigation even in police cases is on the increase. Nevertheless—in a given situation, to do justice between the parties and to instil confidence in the public mind—it may become necessary to ask CBI to investigate a crime. It only shows the efficiency and the independence of the agency."

59. In this connection, we may reiterate the decision of this Court in *Punjab & Haryana High Court Bar Assn.* [(1994) 1 SCC 616: 1994 SCC (Cri) 455: AIR 1994 SC 1023] strongly relied on by the learned Senior Counsel appearing for the writ petitioner. A reference of the paragraph of the said decision on which reliance could be placed has already been made in para 35 from which it would be evident that in order to do complete justice in the matter and to instil confidence in the public mind, this Court felt it necessary to have investigations through the specialised agency like CBI.

60. Therefore, in view of our discussions made hereinabove, it is difficult to accept the contentions of Mr Rohatgi, learned Senior Counsel appearing for the State of Gujarat that after the charge-sheet is submitted in the

court in the criminal proceeding it was not open for this Court or even for the High Court to direct investigation of the case to be handed over to CBI or to any independent agency. Therefore, it can safely be concluded that in an appropriate case when the court feels that the investigation by the police authorities is not in the proper direction and in order to do complete justice in the case and as the high police officials are involved in the said crime, it was always open to the court to hand over the investigation to the independent agency like CBI. It cannot be said that after the charge-sheet is submitted, the court is not empowered, in an appropriate case, to hand over the investigation to an independent agency like CBI.

61. Keeping this discussion in mind, that is to say, in an appropriate case, the court is empowered to hand over the investigation to an independent agency like CBI even when the charge-sheet has been submitted, we now deal with the facts of this case whether such investigation should be transferred to the CBI Authorities or any other independent agency in spite of the fact that the charge-sheet has been submitted in court. On this ground, we have carefully examined the eight action taken reports submitted by the State police authorities before us and also the various materials produced and the submissions of the learned counsel for both the parties.

... ..

80. We have already discussed the decisions cited from the Bar on the question that after the charge-sheet being filed whether the investigation could be handed over to the CBI Authorities or to any other independent agency from the State police authorities. We have already distinguished the decisions cited by the State that they related to the power of the court to monitor the investigation after the charge-sheet was filed. The scope of this order, however, cannot deal with the power of this Court to monitor the investigation, but on the other hand in order to make sure that justice is not only done, but also is seen to be done and considering the involvement of the State police authorities and particularly the high

officials of the State of Gujarat, we are compelled even at this stage to direct the CBI Authorities to investigate into the matter. Since the high police officials of the State of Gujarat are involved and some of them had already been in custody, we are also of the view that it would not be sufficient to instil confidence in the minds of the victims as well as of the public that still the State police authorities would be allowed to continue with the investigation when allegations and offences were mostly against them.

81. In the present circumstances and in view of the involvement of the police officials of the State in this crime, we cannot shut our eyes and direct the State police authorities to continue with the investigation and the charge-sheet and for a proper and fair investigation, we also feel that CBI should be requested to take up the investigation and submit a report in this Court within six months from the date of handing over a copy of this judgment and the records relating to this crime to them.

82. Accordingly, in the facts and circumstances even at this stage the police authorities of the State are directed to hand over the records of the present case to the CBI Authorities within a fortnight from this date and thereafter the CBI Authorities shall take up the investigation and complete the same within six months from the date of taking over the investigation from the State police authorities. The CBI Authorities shall investigate all aspects of the case relating to the killing of Sohrabuddin and his wife Kausarbi including the alleged possibility of a larger conspiracy. The report of the CBI Authorities shall be filed in this Court when this Court will pass further necessary orders in accordance with the said report, if necessary. We expect that the Police Authorities of Gujarat, Andhra Pradesh and Rajasthan shall cooperate with the CBI Authorities in conducting the investigation properly and in an appropriate manner.

(Emphasis supplied)

18.4. In **STATE OF WEST BENGAL v. COMMITTEE FOR PROTECTION OF DEMOCRATIC RIGHTS**⁴, the Apex Court has held as follows:

Conclusions

68. Thus, having examined the rival contentions in the context of the constitutional scheme, we conclude as follows:

(vii) When the Special Police Act itself provides that subject to the consent by the State, CBI can take up investigation in relation to the crime which was otherwise within the jurisdiction of the State police, the Court can also exercise its constitutional power of judicial review and direct CBI to take up the investigation within the jurisdiction of the State. The power of the High Court under Article 226 of the Constitution cannot be taken away, curtailed or diluted by Section 6 of the Special Police Act. Irrespective of there being any statutory provision acting as a restriction on the powers of the Courts, the restriction imposed by Section 6 of the Special Police Act on the powers of the Union, cannot be read as restriction on the powers of the constitutional courts. Therefore, exercise of power of judicial review by the High Court, in our opinion, would not amount to infringement of either the doctrine of separation of power or the federal structure.

69. In the final analysis, our answer to the question referred is that a direction by the High Court, in exercise of its jurisdiction under Article 226 of the Constitution, to CBI to investigate a cognizable offence alleged to have been committed within the territory of a State without the consent of that State will neither impinge upon the federal structure of the Constitution nor violate the doctrine of separation of power and shall be valid in law. Being the protectors of civil liberties of the citizens, this

⁴ (2010) 3 SCC 571

Court and the High Courts have not only the power and jurisdiction but also an obligation to protect the fundamental rights, guaranteed by Part III in general and under Article 21 of the Constitution in particular, zealously and vigilantly.

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 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 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 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.

71. In *Minor Irrigation & Rural Engg. Services, U.P. v. Sahngoo Ram Arya* [(2002) 5 SCC 521: 2002 SCC (L&S) 775] this Court had said that an order directing an enquiry by CBI should be passed only when the High Court, after considering the material on record, comes to a conclusion that such material does disclose a prima facie case calling for an investigation by CBI or any other similar agency. We respectfully concur with these observations.”

(Emphasis supplied)

18.5. In **ASHOK KUMAR TODI v. KISHWAR JAHAN**⁵, the Apex Court has held as follows:

"....

31. In view of the above judgment, it is unnecessary to delve into the issue further about appointment of special agency like CBI for investigation under the orders of the High Court. In fact, in view of the above decision, almost all the counsel appearing on either side have no quarrel with the issue and their present grievance is whether the order of the learned Single Judge is to be implemented or the impugned order of the Division Bench is to be applied.

32. On the legality of the order of the learned Single Judge in directing CBI to investigate and submit a report instead of the State CID, we are of the view that the learned Single Judge assigned acceptable reasons. It was highlighted by the learned Senior Counsel for the mother and brother of the deceased that in spite of Sections 154(3) and 156(1) of the Code and the Police Regulations of Calcutta, the authorities, particularly, the Deputy Commissioner of Police, Detective Department was interested in protraction of the case and was not taking any interest in its investigation. The Deputy Commissioner of Police, Detective Department, and the Additional Deputy Commissioner, Headquarters had unauthorisedly intervened in the matter. Since there was no allegation of abduction against the deceased, the said officers made several attempts to mediate between the deceased and his in-laws. Relevant materials were shown that the officer in charge of Karaya Police Station had visited the residence of the deceased; the intervention by the Deputy Commissioner of Police, Detective Department, in the conjugal life of the deceased was uncalled for. It was also highlighted that without taking into account the earlier decisions of this Court directing the administration/authorities to see that spouses of inter-religious marriages are not harassed or subjected to threats, the

⁵ (2011) 3 SCC 758

Commissioner of Police had made comments, widely reported, that the reaction of the parents to the marriage was natural and death was due to suicide.

33. The learned Senior Counsel has also highlighted unholy nexus between the top brass of the police with the father-in-law of the deceased. By placing such acceptable materials, the writ petitioners expressed doubt about fair investigation under CID and demonstrated that investigation by CBI under the orders of the court is necessary, since justice should not only be done but seen to be done. Inasmuch as the grievance of the mother and brother of the deceased is acceptable, the learned Single Judge, by interim order dated 16-10-2007, directed CBI to investigate into the cause of unnatural death of Rizwanur Rahman and file a report before it.

... ..

42. While answering those issues, the Division Bench of the High Court committed several infirmities which we point out hereunder. With regard to the interim order dated 16-10-2007 passed by the learned Single Judge appointing CBI to investigate and report, the Division Bench has observed that the learned Single Judge has not injuncted or restrained the State CID from proceeding with the investigation in accordance with the Code. The Division Bench has also commented that in the absence of any direction by the learned Single Judge for handing over the papers relating to the investigation done so far by CID to CBI, CID ought to have completed the investigation on its own. We are unable to accept this conclusion.

43. When the learned Single Judge on satisfying himself based on the materials, particularly, the conduct of the State Police and the apprehension of the mother and brother of the deceased about getting fair justice at the hands of the State CID directed investigation by CBI, there cannot be any parallel investigation by the State CID.

44. In the same way, we are unable to accept the conclusion of the Division Bench that the learned Single Judge simply appointed CBI as His Lordship's "Special Officer" to investigate into the cause of unnatural death of the deceased and to submit a report in a sealed cover. The said finding of the

High Court is not borne out of the records of the case including the order dated 16-10-2007 passed by the learned Single Judge. Neither the Code authorises the appointment of CBI officers as "Special Officer" nor the prayers made in the writ petition prayed for appointment of CBI to act as "Special Officer" of the Court. As a matter of fact, the order dated 16-10-2007 of the learned Single Judge does not mention that CBI was being appointed as "Special Officer" of the Court.

45. In the interim order, the learned Single Judge decided the question whether investigation by CID was just, fair and proper or whether such investigation should be conducted by CBI. Merely because no injunction was passed against CID from continuing with the investigation in the matter or no order was passed directing CID to hand over all the papers relating to investigation conducted by them to CBI, does not mean that CID was free to continue with their investigation. On the other hand, the order dated 16-10-2007 makes it clear that the learned Single Judge was prima facie satisfied that the case in question necessitated investigation by CBI. Thus, the finding of the Division Bench that the learned Single Judge appointed CBI as its "Special Officer" is patently against all canons of justice, equity and fair play in action.

46. The Division Bench of the High Court also committed an error in holding the order appointing CBI to investigate for the purpose of submitting report to the learned Single Judge and not to investigate for the alleged offence in accordance with law in place of State CID and hence conclusion of such investigation by CBI cannot form the basis of charge-sheet in the criminal trial. The Division Bench has also not considered the judgment dated 14-8-2008 passed by the learned Single Judge in terms whereof, the Court permitted CBI to proceed in accordance with law for filing charge-sheet before the competent court under Section 173(2) of the Code and was also granted liberty to conduct further investigation before it actually files the charge-sheet at any point it may consider necessary in the interest of justice. Neither the learned Single Judge directed CBI to submit the report as charge-sheet, as has been held

erroneously by the learned Division Bench, nor was CBI stopped from conducting further investigation in the matter before it actually filed the charge-sheet at any point it may consider necessary in the interest of justice. It is evident that CBI at interim order stage was directed to investigate the case and at the final order stage was directed to submit charge-sheet after making further investigation.

...

...

...

51. In view of the same, the Division Bench failed to appreciate the order dated 16-10-2007 passed by the learned Single Judge directing CBI to investigate into the cause of unnatural death of Rizwanur Rehman. We have already noted that as per Section 2(h) of the Code "investigation" includes all the proceedings under this Code for collection of evidence conducted by a police officer. The direction to conduct investigation requires registration of an FIR preceding investigation and, therefore had to be treated as casting an obligation on CBI to first register an FIR and thereafter proceed to find out the cause of death, whether suicidal or homicidal. In order to find out whether the death of Rizwanur Rahman was suicidal or homicidal, investigation could have been done only after registration of an FIR. Therefore, CBI was justified in recording FIR on 19-10-2007 in terms of the order dated 16-10-2007 passed by the learned Single Judge.

52. The inquiry/investigation under Section 174 read with Section 175 of the Code may continue till the outcome of the cause of the death. Depending upon the cause of death, the police has to either close the matter or register an FIR. In the case on hand, as per the post-mortem report dated 22-9-2007, the cause of death of Rizwanur Rahman was due to the effect of ten injuries on the body and which were ante-mortem in nature. In such circumstances, the proceedings under Section 174 of the Code were not permissible beyond 22-9-2007 and registration of an FIR was the natural outcome to ascertain whether the death was homicidal or suicidal.

(Emphasis supplied)

18.6. In **NARMADA BAI v. STATE OF GUJARAT**⁶ the Apex Court has held as follows:

" "

Key issues

26. Keeping the above submissions in mind, we have to first find out:

(A) Whether after filing of the charge-sheet by the State agency, the Court is precluded from appointing any other independent specialised agency like CBI to go into the same issues if the earlier investigation was not done as per the established procedure; and

(B) Subject to the answer relating to the issue raised in (A), whether the petitioner has made out a case for entrusting the investigation to CBI.

Analysis as to Issue (A)

27. The first issue i.e. Issue (A) as in the case on hand also arose in *Rubabbuddin Sheikh* [(2010) 2 SCC 200 : (2010) 2 SCC (Cri) 1006] . The factual details therein will be discussed in the later paragraphs. With regard to the similar objection as to further investigation by CBI, this Court considered the following cases:

- (i) *Vineet Narain v. Union of India* [(1996) 2 SCC 199 : 1996 SCC (Cri) 264] ,
- (ii) *Union of India v. Sushil Kumar Modi* [(1998) 8 SCC 661 : 1999 SCC (Cri) 84] ,
- (iii) *Rajiv Ranjan Singh 'Lalan' (8) v. Union of India* [(2006) 6 SCC 613 : (2006) 3 SCC (Cri) 125] ,
- (iv) *Hari Singh v. State of U.P.* [(2006) 5 SCC 733 : (2006) 3 SCC (Cri) 63] ,
- (v) *Aleque Padamsee v. Union of India* [(2007) 6 SCC 171 : (2007) 3 SCC (Cri) 1] ,

⁶ (2011) 5 SCC 79

- (vi) *M.C. Mehta v. Union of India* [(2008) 1 SCC 407 : (2008) 1 SCC (Cri) 216] ,
- (vii) *R.S. Sodhi v. State of U.P.* [1994 Supp (1) SCC 143 : 1994 SCC (Cri) 248] ,
- (viii) *Ramesh Kumari v. State (NCT of Delhi)* [(2006) 2 SCC 677 : (2006) 1 SCC (Cri) 678] ,
- (ix) *Kashmeri Devi v. Delhi Admn.* [1988 Supp SCC 482 : 1988 SCC (Cri) 864] ,
- (x) *Gudalure M.J. Cherian v. Union of India* [(1992) 1 SCC 397] , and
- (xi) *Punjab & Haryana High Court Bar Assn. v. State of Punjab* [(1994) 1 SCC 616 : 1994 SCC (Cri) 455]

and concluded in paras 60-61 as under : (*Rubabbuddin Sheikh case* [(2010) 2 SCC 200 : (2010) 2 SCC (Cri) 1006] , SCC pp. 216-17)

"60. Therefore, in view of our discussions made hereinabove, it is difficult to accept the contentions of Mr Rohatgi, learned Senior Counsel appearing for the State of Gujarat that after the charge-sheet is submitted in the court in the criminal proceeding it was not open for this Court or even for the High Court to direct investigation of the case to be handed over to CBI or to any independent agency. Therefore, it can safely be concluded that in an appropriate case when the court feels that the investigation by the police authorities is not in the proper direction and in order to do complete justice in the case and as the high police officials are involved in the said crime, it was always open to the court to hand over the investigation to the independent agency like CBI. It cannot be said that after the charge-sheet is submitted, the court is not empowered, in an appropriate case, to hand over the investigation to an independent agency like CBI.

61. Keeping this discussion in mind, that is to say, *in an appropriate case, the court is empowered to hand over the investigation to an independent agency like CBI even when the charge-sheet has been submitted*, we now deal with the facts of this case whether such investigation should be transferred to the CBI Authorities or any other independent agency in spite of the fact that the charge-sheet has been submitted in court. On this ground, we have carefully examined the eight action-taken reports submitted by the State police authorities before us and also the

various materials produced and the submissions of the learned counsel for both the parties.”

(emphasis supplied)

It is clear that in an appropriate case, particularly, when the Court feels that the investigation by the State police authorities is not in the proper direction as the high police officials are involved, in order to do complete justice, it is always open to the Court to hand over the investigation to an independent and specialised agency like CBI.

...

...

...

59. It is not in dispute that it is the age-old maxim that justice must not only be done but must be seen to be done. The fact that in the case of murder of an associate of Tulsiram Prajapati, senior police officials and a senior politician were accused may shake the confidence of public in investigation conducted by the State police. If the majesty of the rule of law is to be upheld and if it is to be ensured that the guilty are punished in accordance with law notwithstanding their status and authority which they might have enjoyed, it is desirable to entrust the investigation to CBI.

60. As stated earlier, it is the specific claim of the State of Gujarat that they have conducted a fair and impartial investigation into the killing of Tulsiram Prajapati, however, analysis of the materials which we have already discussed shows several lacunae on the part of the investigation by the State Government. It is relevant to point out that much before the incident dated 28-12-2006 which happened in Village Chappri in Banaskantha District of the State of Gujarat in which Tulsiram Prajapati was allegedly shot in an encounter while he had opened fire on the police party, who was on the lookout for him to apprehend him, after he had allegedly escaped from a running train while being taken back to Rajasthan from Gujarat where he was stated to be produced in a court proceeding, Tulsiram Prajapati lodged two complaints in written, one to the Collector, Udaipur and another addressed to the Chairman, NHRC, New Delhi expressing the apprehension that he is likely and going to be killed by Gujarat and Rajasthan Police. In fact, on 28-12-2006, Tulsiram Prajapati has been killed in the fake

encounter which has now been admitted to be a fake encounter after a gap of 3½ years.

61. In *Mohd. Anis v. Union of India* [1994 Supp (1) SCC 145 : 1994 SCC (Cri) 251] it has been observed by this Court that:

"5. ... Fair and impartial investigation by an independent agency, not involved in the controversy, is the demand of public interest. If the investigation is by an agency which is allegedly privy to the dispute, the credibility of the investigation will be doubted and that will be contrary to the public interest as well as the interest of justice." (SCC p. 148, para 5)

"2. ... Doubts were expressed regarding the fairness of the investigation as it was feared that as the local police was alleged to be involved in the encounters, the investigation by an officer of the U.P. Cadre may not be impartial." (SCC p. 147, para 2)

62. In another decision of this Court in *R.S. Sodhi v. State of U.P.* [1994 Supp (1) SCC 143 : 1994 SCC (Cri) 248] the following conclusion is relevant : (SCC pp. 144-45, para 2)

"2. ... We have perused the events that have taken place since the incidents but we are refraining from entering upon the details thereof lest it may prejudice any party but we think that since the accusations are directed against the local police personnel it would be desirable to entrust the investigation to an independent agency like the Central Bureau of Investigation so that all concerned including the relatives of the deceased may feel assured that an independent agency is looking into the matter and that would lend the final outcome of the investigation credibility. However faithfully the local police may carry out the investigation, the same will lack credibility since the allegations are against them. It is only with that in mind that we having thought it both advisable and desirable as well as in the interest of justice to entrust the investigation to the Central Bureau of Investigation forthwith and we do hope that it would complete the investigation at an early date so that those involved in the occurrences, one way or the other, may be brought to book. We direct accordingly."

63. In both these decisions, this Court refrained from expressing any opinion on the allegations made by either side but thought it wise to have the incident investigated by an independent agency like CBI so that it may bear credibility. This Court felt that no matter how faithfully and honestly the local police may carry out the investigation, the same will lack credibility as allegations were directed against them. This Court, therefore, thought it both desirable and advisable and in the interest of justice to entrust the investigation to CBI so that it may complete the investigation at an early date. It was clearly stated that in so ordering, no reflection either on the local police or the State Government was intended. This Court merely acted in public interest.

64. The above decisions and the principles stated therein have been referred to and followed by this Court in *Rubabbuddin Sheikh* [(2010) 2 SCC 200 : (2010) 2 SCC (Cri) 1006] where also it was held that considering the fact that the allegations have been levelled against high-level police officers, despite the investigation made by the police authorities of the State of Gujarat, ordered investigation by CBI. Without entering into the allegations levelled by either of the parties, we are of the view that it would be prudent and advisable to transfer the investigation to an independent agency. It is trite law that the accused persons do not have a say in the matter of appointment of an investigation agency. The accused persons cannot choose as to which investigation agency must investigate the alleged offence committed by them.

65. In view of our discussions and submission of the learned counsel on either side and keeping in mind the earlier directions given by this Court, although, charge-sheet has been filed by the State of Gujarat after a gap of 3½ years after the incident, that too after pronouncement of judgment in *Rubabbuddin case* [(2010) 2 SCC 200 : (2010) 2 SCC (Cri) 1006] and considering the nature of crime that has been allegedly committed not by any third party but by the police personnel of the State of Gujarat, we are satisfied that the investigation conducted and concluded in the present case by the State police cannot be accepted. In view of

various circumstances highlighted and in the light of the involvement of police officials of the State of Gujarat and police officers of two other States i.e. Andhra Pradesh and Rajasthan, it would not be desirable to allow the Gujarat State Police to continue with the investigation, accordingly, to meet the ends of justice and in the public interest, we feel that CBI should be directed to take the investigation."

(Emphasis supplied)

18.7. In **BHARATI TAMANG v. UNION OF INDIA**⁷, the Apex

Court holds as follows:

"....

36. Again, in the subsequent decision in *Rubabbuddin Sheikh v. State of Gujarat* [(2010) 2 SCC 200 : (2010) 2 SCC (Cri) 1006] , this Court has highlighted as to how under certain circumstances the investigation can be entrusted with independent agencies like CBI and also monitor the further progress of the case after the final report is filed by CBI. The relevant paras are 60 and 82 which are as under : (SCC pp. 216 & 221)

"60. Therefore, in view of our discussions made hereinabove, it is difficult to accept the contentions of Mr Rohatgi, learned Senior Counsel appearing for the State of Gujarat that after the charge-sheet is submitted in the court in the criminal proceeding it was not open for this Court or even for the High Court to direct investigation of the case to be handed over to CBI or to any independent agency. *Therefore, it can safely be concluded that in an appropriate case when the court feels that the investigation by the police authorities is not in the proper direction and in order to do complete justice in the case and as the high police officials are involved in the said crime, it was always open to the court to hand over the investigation to the independent agency like CBI.* It cannot be said that after

⁷ (2013) 15 SCC 578

the charge-sheet is submitted, the court is not empowered, in an appropriate case, to hand over the investigation to an independent agency like CBI.

82. ... The report of CBI Authorities shall be filed in this Court when this Court will pass further necessary orders in accordance with the said report, if necessary. We expect that the Police Authorities of Gujarat, Andhra Pradesh and Rajasthan shall cooperate with CBI Authorities in conducting the investigation properly and in an appropriate manner."

(emphasis supplied)

37. In the decision of *Babubhai v. State of Gujarat* [(2010) 12 SCC 254 : (2011) 1 SCC (Cri) 336] , in para 40, this Court held that the scheme of investigation particularly Section 173(8) CrPC provides for further investigation and not of reinvestigation but held in para 42 as under : (SCC p. 272)

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

(emphasis supplied)

38. Therefore, at times of need where this Court finds that an extraordinary or exceptional circumstance arise and the necessity for reinvestigation would be imperative in such extraordinary cases even de novo investigation can be ordered.

39. In the 2G Spectrum case in *Centre for Public Interest Litigation v. Union of India* [(2011) 1 SCC 560 : (2011) 1 SCC (Cri) 463] , this Court gave extensive directions in para 19 and also directed CBI to produce the progress report before this Court.

40. In the decision of *Ram Jethmalani v. Union of India* [(2011) 8 SCC 1 : (2011) 3 SCC (Cri) 310] (to which one of us S.S. Nijjar, J. was a party) considering the nature of grievances expressed by the writ petitioner, constituted a high-level committee as a Special Investigation Team in order to ensure that an effective investigation is carried out and the culprits were brought to book.

41. From the various decisions relied upon by the petitioner counsel as well as by respondents' counsel, the following principles can be culled out.

41.1. The test of admissibility of evidence lies in its relevancy.

41.2. Unless there is an express or implied constitutional prohibition or other law, evidence placed as a result of even an illegal search or seizure is not liable to be shut out.

41.3. If deficiency in investigation or prosecution is visible or can be perceived by lifting the veil which try to hide the realities or covering the obvious deficiency, Courts have to deal with the same with an iron hand appropriately within the framework of law.

41.4. It is as much the duty of the prosecutor as of the Court to ensure that full and material facts are brought on record so that there might not be miscarriage of justice.

41.5. In order to ensure that the criminal prosecution is carried on without any deficiency, in appropriate cases this Court can even constitute Special Investigation Team and also give appropriate directions to the Central and State Governments and other authorities to give all required assistance to such specially constituted investigating team in order to book the real culprits and for effective conduct of the prosecution.

41.6. While entrusting the criminal prosecution with other instrumentalities of State or by constituting a Special Investigation Team, the High Court or this Court can also monitor such investigation in order to ensure proper conduct of the prosecution.

41.7. In appropriate cases even if the charge-sheet is filed it is open for this Court or even for the High Court to direct investigation of the case to be handed over to CBI or to any other independent agency in order to do complete justice.

41.8. In exceptional circumstances the Court in order to prevent miscarriage of criminal justice and if considers necessary may direct for investigation de novo."

(Emphasis supplied)

18.8. In **SUBRATA CHATTORAJ v. UNION OF INDIA**⁸, the Apex Court holds as follows:

"....

36. The question is whether the above features call for transfer of the on-going investigation from the State Police to CBI. Our answer is in the affirmative. Each one of the aspects set out above in our view calls for investigation by an independent agency like the Central Bureau of Investigation (CBI). That is because apart from the sensitivity of the issues involved, especially inter-State ramifications of the scam under investigation, transfer of cases from the State Police have been ordered by this Court also with a view to ensure credibility of such investigation in the public perception. Transfers have been ordered by this Court even in cases where the family members of the victim killed in a firing incident had expressed apprehensions about the fairness of the investigation and prayed for entrusting the matter to a credible and effective agency like CBI.

37. Investigation by the State Police in a scam that involves thousands of crores collected from the public allegedly because of the patronage of people occupying high positions in the system will hardly carry conviction especially when even the regulators who were expected to prevent or check such a scam appear to have turned a blind eye to what was going on. The State Police Agency has done well in making seizures, in registering cases, in completing investigations in most of the cases and filing charge-sheets and bringing those who are responsible to book. The question, however, is not whether the

⁸ (2014) 8 SCC 768

State Police has faltered. The question is whether what is done by the State Police is sufficient to inspire confidence of those who are aggrieved.

38. While we do not consider it necessary to go into the question whether the State Police have done all that it ought to have done, we need to point out that money trail has not yet been traced. The collections made from the public far exceed the visible investment that the investigating agencies have till now identified. So also the larger conspiracy angle in the States of Assam, Odisha and West Bengal although under investigation has not made much headway partly because of the inter-State ramifications, which the investigating agencies need to examine but are handicapped in examining.

39. M/s Vaidyanathan and Gopal Subramaniam, learned counsel for the States of West Bengal and Odisha respectively argued that CBI itself has in a great measure lost its credibility and is no longer as effective and independent as it may have been in the past. Similar sentiments were expressed by Mr P.V. Shetty appearing on behalf of some of the investors and some other intervenors, who followed suit to pursue a similar line of argument.

40. There is, in our opinion, no basis of the apprehension expressed by the State Governments. It is true that a lot can be said about the independence of CBI as a premier investigating agency but so long as there is nothing substantial affecting its credibility it remains a premier investigating agency. Those not satisfied with the performance of the State Police more often than not demand investigation by CBI for it inspires their confidence. We cannot, therefore, decline transfer of the cases only because of certain stray observations or misplaced apprehensions expressed by those connected with the scam or those likely to be affected by the investigation.

41. We may in this regard gainfully extract the following passage from the decision of this Court in *Sanjiv Kumar v. State of Haryana* [(2005) 5 SCC 517: (2006) 1 SCC (Cri) 235] , wherein this Court has lauded CBI as an independent agency

that is not only capable of but actually shows results: (SCC p. 523, para 15)

"15. In the peculiar facts and circumstances of the case, looking at the nature of the allegations made and the mighty people who are alleged to be involved, we are of the opinion, that the better option of the two is to entrust the matter to investigation by CBI. We are well aware, as was also told to us during the course of hearing, that the hands of CBI are full and the present one would be an additional load on their head to carry. Yet, the fact remains that CBI as a Central investigating agency enjoys independence and confidence of the people. It can fix its priorities and programme the progress of investigation suitably so as to see that any inevitable delay does not prejudice the investigation of the present case. They can think of acting fast for the purpose of collecting such vital evidence, oral and documentary, which runs the risk of being obliterated by lapse of time. The rest can afford to wait for a while. We hope that the investigation would be entrusted by the Director, CBI to an officer of unquestioned independence and then monitored so as to reach a successful conclusion; the truth is discovered and the guilty dragged into the net of law. Little people of this country, have high hopes from CBI, the prime investigating agency which works and gives results. We hope and trust the sentinels in CBI would justify the confidence of the people and this Court reposed in them."

42. In the circumstances, we are inclined to allow all these petitions and direct transfer of the following cases registered in different police stations in the State of West Bengal and Odisha from the State Police Agency to the Central Bureau of Investigation (CBI):"

(Emphasis supplied)

18.9. In **MITHILESH KUMAR SINGH v. STATE OF RAJASTHAN**⁹, the Apex Court holds as follows:

" "

11. 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 the Delhi Police 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 W.B. v. Committee for Protection of Democratic Rights* [(2010) 3 SCC 571: (2010) 2 SCC (Cri) 401] .

12. 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

⁹ (2015) 9 SCC 795

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 commonplace 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 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.

13. 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 : 1994 SCC (Cri) 1653] this Court transferred the investigation to CBI even when the investigation was being monitored by senior officers of the State Police. So also in *R.S. Sodhi v. State of U.P.* [1994 Supp (1) SCC 143 : 1994 SCC (Cri) 248] 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 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 several persons were very serious. The transfer to 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".

14. Reference may also be made to the decision of this Court in *State of Punjab v. CBI* [(2011) 9 SCC 182: (2011) 3 SCC (Cri) 666] wherein this Court upheld the order transferring investigation from the State Police to 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 : (2014) 6 SCC (Cri) 116] , this Court directed transfer of the Chit

Fund Scam in the States of West Bengal and Orissa from the State Police to CBI keeping in view the involvement of several influential persons holding high positions of power and influence or political clout.

15. 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.

16. 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 CBI lest an incomplete, indifferent or ineffective investigation leads to failure of justice.

...

...

...

22. It is true that the prayer for transfer of investigation from the State Police to CBI can be allowed only in rare and exceptional circumstances when fair investigation by the State Police does not inspire confidence on account of any external influence or

otherwise as held in *State of W.B. v. Committee for Protection of Democratic Rights* [(2010) 3 SCC 571 : (2010) 2 SCC (Cri) 401] . 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 CBI.”

(Emphasis supplied)

18.10. In **DHARAM PAL v. STATE OF HARYANA**¹⁰, the Apex

Court holds as follows:

“....

21. In this context, we may notice the statutory scheme pertaining to investigation. Section 173 CrPC empowers the police officer conducting investigation to file a report on completion of the investigation with the Magistrate empowered to take cognizance of the offence. Section 173(8) CrPC empowers the officer-in-charge to conduct further investigation even after filing of a report under Section 173(2) CrPC if he obtains further evidence, oral or documentary. Thus, the power of the police officer under Section 173(8) CrPC is unrestricted. Needless to say, the Magistrate has no power to interfere but it would be appropriate on the part of the investigating officer to inform the Court. It has been so stated in *Rama*

¹⁰ (2016) 4 SCC 160

Chaudhary v. State of Bihar [*Rama Chaudhary v. State of Bihar*, (2009) 6 SCC 346 : (2009) 2 SCC (Cri) 1059] .

22. In *Vinay Tyagi v. Irshad Ali* [*Vinay Tyagi v. Irshad Ali*, (2013) 5 SCC 762 : (2013) 4 SCC (Cri) 557] , wherein a two-Judge Bench, after referring to the decision in *Bhagwant Singh v. Commr. of Police* [*Bhagwant Singh v. Commr. of Police*, (1985) 2 SCC 537 : 1985 SCC (Cri) 267] has held thus: (*Vinay Tyagi case* [*Vinay Tyagi v. Irshad Ali*, (2013) 5 SCC 762: (2013) 4 SCC (Cri) 557], SCC p. 789, para 38)

"38. However, having given our considered thought to the principles stated in these judgments, we are of the view that the Magistrate before whom a report under Section 173(2) of the Code is filed, is empowered in law to direct 'further investigation' and require the police to submit a further or a supplementary report. A three-Judge Bench of this Court in *Bhagwant Singh* [*Bhagwant Singh v. Commr. of Police*, (1985) 2 SCC 537 : 1985 SCC (Cri) 267] has, in no uncertain terms, stated that principle, as aforenoticed."

23. In the said case, the question had arisen whether a Magistrate can direct for reinvestigation. While dealing with the said issue, the Court has observed: (*Vinay Tyagi case* [*Vinay Tyagi v. Irshad Ali*, (2013) 5 SCC 762 : (2013) 4 SCC (Cri) 557] , SCC p. 791, para 43)

"43. At this stage, we may also state another well-settled canon of the criminal jurisprudence that the superior courts have the jurisdiction under Section 482 of the Code or even Article 226 of the Constitution of India to direct 'further investigation', 'fresh' or 'de novo' and even 'reinvestigation'. 'Fresh', 'de novo' and 'reinvestigation' are synonymous expressions and their result in law would be the same. *The superior courts are even vested with the power of transferring investigation from one agency to another, provided the ends of justice so demand such action. Of course, it is also a settled principle that this power has to be exercised by the superior courts very sparingly and with great circumspection.*"

(emphasis supplied)

And again : (SCC p. 794, para 51)

"51. ... Whether the Magistrate should direct 'further investigation' or not is again a matter which will depend upon the facts of a given case. The learned Magistrate or the higher court of competent jurisdiction would direct 'further investigation' or 'reinvestigation', as the case may be, on the facts of a given case. Where the Magistrate can only direct further investigation, the courts of higher jurisdiction can direct further, reinvestigation or even investigation de novo depending on the facts of a given case. It will be the specific order of the court that would determine the nature of investigation."

24. Be it noted here that the constitutional courts can direct for further investigation or investigation by some other investigating agency. The purpose is, there has to be a fair investigation and a fair trial. The fair trial may be quite difficult unless there is a fair investigation. We are absolutely conscious that direction for further investigation by another agency has to be very sparingly issued but the facts depicted in this case compel us to exercise the said power. We are disposed to think that purpose of justice commands that the cause of the victim, the husband of the deceased, deserves to be answered so that miscarriage of justice is avoided. Therefore, in this case the stage of the case cannot be the governing factor.

25. We may further elucidate. The power to order fresh, de novo or reinvestigation being vested with the constitutional courts, the commencement of a trial and examination of some witnesses cannot be an absolute impediment for exercising the said constitutional power which is meant to ensure a fair and just investigation. It can never be forgotten that as the great ocean has only one taste, the taste of salt, so does justice have one flavour, the flavour of answering to the distress of the people without any discrimination. We may hasten to add that the democratic set-up has the potentiality of ruination if a citizen feels, the truth uttered by a poor man is seldom listened to. Not for nothing it has been said that sun rises and sun sets, light and darkness, winter and spring come and go, even the course of time is playful but truth remains and sparkles when justice is done. It is the bounden duty of a court of law to uphold the truth and truth means absence of deceit, absence of

fraud and in a criminal investigation a real and fair investigation, not an investigation that reveals itself as a sham one. It is not acceptable. It has to be kept uppermost in mind that impartial and truthful investigation is imperative. If there is indentation or concavity in the investigation, can the "faith" in investigation be regarded as the gospel truth? Will it have the sanctity or the purity of a genuine investigation? If a grave suspicion arises with regard to the investigation, should a constitutional court close its hands and accept the proposition that as the trial has commenced, the matter is beyond it? That is the "tour de force" of the prosecution and if we allow ourselves to say so it has become "idée fixe" but in our view the imperium of the constitutional courts cannot be stifled or smothered by bon mot or polemic. Of course, the suspicion must have some sort of base and foundation and not a figment of one's wild imagination. One may think an impartial investigation would be a nostrum but not doing so would be like playing possum. As has been stated earlier, facts are self-evident and the grieved protagonist, a person belonging to the lower strata. He should not harbour the feeling that he is an "orphan under law".

26. In view of the aforesaid analysis, the appeal is allowed, the order of the High Court is set aside, and it is directed that CBI shall conduct the investigation and file the report before the learned trial Judge. The said investigation report shall be considered by the trial Judge as per law. Till the report by CBI is filed, the learned trial Judge shall not proceed with the trial. A copy of the order be handed over to Mr P.K. Dey, learned counsel for CBI to do the needful."

(Emphasis supplied)

18.11. In **POOJA PAL v. UNION OF INDIA**¹¹ the Apex Court holds as follows:

"....

75. That the extraordinary power of the constitutional courts under Articles 32 and 226 of the Constitution of India qua the issuance of direction to CBI to conduct investigation must be exercised with great caution, was underlined in *Committee for Protection of Democratic Rights [State of W.B. v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571 : (2010) 2 SCC (Cri) 401]* as adverted to hereinabove. **Observing that although no inflexible guidelines can be laid down in this regard, it was highlighted that such an order cannot be passed as a matter of routine or merely because the party has levelled some allegations against the local police and can be invoked in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigation or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and for enforcing the fundamental rights.**

76. In *Kashmeri Devi [Kashmeri Devi v. Delhi Admn., 1988 Supp SCC 482 : 1988 SCC (Cri) 864]*, being satisfied, in the prevailing facts and circumstances that effort had been made to protect and shield the guilty officers of the police who allegedly had perpetrated the offence of murder involved, this Court directed the Magistrate concerned before whom the charge-sheet had been submitted, to exercise its power under Section 173(8) of the Code to direct CBI for proper and thorough investigation of the case and to submit an additional charge-sheet in accordance with law.

77. In *Gudalure M.J. Cherian [Gudalure M.J. Cherian v. Union of India, (1992) 1 SCC 397]*, **this Court in a petition under Article 32 of the Constitution of India, lodged in public interest, did after taking note of the fact**

¹¹ (2016) 3 SCC 135

that charge-sheet had already been submitted, direct CBI to hold further investigation in respect of the offence involved. In recording this conclusion, this Court did take note of the fact that the nuns who had been the victim of the tragedy did not come forward to identify the culprits and that as alleged by the petitioners, the four persons set up by the police as accused were not the real culprits and that the victims were being asked to accept them to be so. The paramount consideration for the direction issued was to secure justice between the parties and to instil confidence in public mind. The same imperative did impel this Court to issue a similar direction for fresh investigation by CBI in *Punjab and Haryana High Court Bar Assn. [Punjab and Haryana High Court Bar Assn. v. State of Punjab, (1994) 1 SCC 616 : 1994 SCC (Cri) 455]* Here as well the investigation otherwise had been completed and charge-sheet was submitted.

78. This Court dealing with the proposition that once a charge-sheet is filed, it would then be exclusively in the domain of the competent court to deal with the case on merits in accordance with law and that the monitoring of the investigation would cease in all respects, held, in particular, in *K.V. Rajendran [K.V. Rajendran v. Supt. of Police, (2013) 12 SCC 480 : (2014) 4 SCC (Cri) 578]* in reiteration of the enunciations aforesaid, that though it is ordinarily so, the power of transferring investigation in rare and exceptional cases for the purpose of doing justice between the parties and to instil confidence in the public mind, can be made invoking its constitutional power available, to ensure a fair, honest and complete investigation.

79. The precedential ordainment against absolute prohibition for assignment of investigation to any impartial agency like CBI, submission of the charge-sheet by the normal investigating agency in law notwithstanding, albeit in an exceptional fact situation warranting such initiative, in order to secure a fair, honest and complete investigation and to consolidate the confidence of the victim(s) and the public in general in the justice administering mechanism, is thus unquestionably absolute and hallowed by time. Such a measure, however, can by no means be a matter of course or routine but

has to be essentially adopted in order to live up to and effectuate the salutary objective of guaranteeing an independent and upright mechanism of justice dispensation without fear or favour, by treating all alike.

80. In the decisions cited on behalf of CBI as well, this Court in *K. Saravanan Karuppasamy* [*K. Saravanan Karuppasamy v. State of T.N.*, (2014) 10 SCC 406 : (2015) 1 SCC (Cri) 133] and *SudiptaLenka* [*SudiptaLenka v. State of Odisha*, (2014) 11 SCC 527 : (2014) 3 SCC (Cri) 428] , recounted the above propositions underpinning the primacy of credibility and confidence in investigations and a need for complete justice and enforcement of fundamental rights judged on the touchstone of high public interest and the paramountcy of the rule of law.

81. The judicially propounded propositions on the aspects of essentiality and justifiability for assignment of further investigation or reinvestigation to an independent investigating agency like CBI, whether or not the probe into a criminal offence by the local/State Police is pending or completed, irrespective of as well, the pendency of the resultant trial have concretised over the years, applicability whereof, however, is contingent on the factual setting involved and the desideratum for vigilant, sensitised and even-handed justice to the parties.

82. The exhaustive references of the citations seemingly repetitive though, assuredly attest the conceptual consisting in the expositions and enunciations on the issue highlighting the cause of justice as the ultimate determinant for the course to be adopted.

83. A "speedy trial", albeit the essence of the fundamental right to life entrenched in Article 21 of the Constitution of India has a companion in concept in "fair trial", both being inalienable constituents of an adjudicative process, to culminate in a judicial decision by a court of law as the final arbiter. There is indeed a qualitative difference between right to speedy trial and fair trial so much so that denial of the former by itself would not be prejudicial to the accused, when pitted against the imperative of fair trial. As fundamentally, justice not

only has to be done but also must appear to have been done, the residuary jurisdiction of a court to direct further investigation or reinvestigation by any impartial agency, probe by the State Police notwithstanding, has to be essentially invoked if the statutory agency already in charge of the investigation appears to have been ineffective or is presumed or inferred to be not being able to discharge its functions fairly, meaningfully and fructuously. As the cause of justice has to reign supreme, a court of law cannot reduce itself to be a resigned and a helpless spectator and with the foreseen consequences apparently unjust, in the face of a faulty investigation, meekly complete the formalities to record a foregone conclusion. Justice then would become a casualty. Though a court's satisfaction of want of proper, fair, impartial and effective investigation eroding its credence and reliability is the precondition for a direction for further investigation or reinvestigation, submission of the charge-sheet ipso facto or the pendency of the trial can by no means be a prohibitive impediment. The contextual facts and the attendant circumstances have to be singularly evaluated and analysed to decide the needfulness of further investigation or reinvestigation to unravel the truth and mete out justice to the parties. The prime concern and the endeavour of the court of law is to secure justice on the basis of true facts which ought to be unearthed through a committed, resolved and a competent investigating agency.

84. As every social order is governed by the rule of law, the justice dispensing system cannot afford any compromise in the discharge of its sanctified role of administering justice on the basis of the real facts and in accordance with law. This is indispensable, in order to retain and stabilise the faith and confidence of the public in general in the justice delivery institutions as envisioned by the Constitution.

85. As succinctly summarised by this Court in *Committee for Protection of Democratic Right [State of W.B. v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571 : (2010) 2 SCC (Cri) 401]* , the extraordinary power of the constitutional courts in directing CBI to conduct investigation in a case must be exercised sparingly, cautiously and in exceptional

situations, when it is necessary to provide credibility and instil confidence in investigation or where the incident may have national or international ramifications or where such an order may be necessary for doing complete justice and for enforcing the fundamental rights. In our comprehension, each of the determinants is consummate and independent by itself to justify the exercise of such power and is not interdependent on each other.

86. A trial encompasses investigation, inquiry, trial, appeal and retrial i.e. the entire range of scrutiny including crime detection and adjudication on the basis thereof. Jurisprudentially, the guarantee under Article 21 embraces both the life and liberty of the accused as well as interest of the victim, his near and dear ones as well as of the community at large and therefore, cannot be alienated from each other with levity. It is judicially acknowledged that fair trial includes fair investigation as envisaged by Articles 20 and 21 of the Constitution of India. Though well-demarcated contours of crime detection and adjudication do exist, if the investigation is neither effective nor purposeful nor objective nor fair, it would be the solemn obligation of the courts, if considered necessary, to order further investigation or reinvestigation as the case may be, to discover the truth so as to prevent miscarriage of the justice. No inflexible guidelines or hard-and-fast rules as such can be prescribed by way of uniform and universal invocation and the decision is to be conditioned to the attendant facts and circumstances, motivated dominantly by the predication of advancement of the cause of justice.

...

...

...

100. The present factual conspectus leaves one with a choice either to let the ongoing trial casually drift towards its conclusion with the possibility of offence going unpunished or to embark upon investigation belated though, spurred by the intervening developments, to unravel the truth, irrespective of the persons involved. As it is, every offence is a crime against the society and is unpardonable, yet there are some species of ghastly, revolting and villainous violations of the invaluable right to life which leave all sensible and right-minded persons of the society shell-shocked and traumatised in body and soul. Such incidents mercifully, rare though, are indeed exceptionally agonising, eliciting resentful condemnation of all and thus

warrant an extraordinary attention for adequate remedial initiatives to prevent their recurrence. In our considered view, even if such incidents, otherwise diabolical and horrendous, do not precipitate national or international ramifications, these undoubtedly transcend beyond the confines of individual tragedies and militatively impact upon the society's civilised existence. If the cause of complete justice and protection of human rights are the situational demands in such contingencies, order for further investigation or reinvestigation, even by an impartial agency as CBI ought to be a peremptory measure in the overwhelming cause of justice.

101. Judged in these perspectives, we are of the firm opinion that notwithstanding the pendency of the trial, and the availability of the power of the courts below under Sections 311 and 391 of the Code read with Section 165 of the Evidence Act, it is of overwhelming and imperative necessity that to rule out any possibility of denial of justice to the parties and more importantly to instil and sustain the confidence of the community at large, CBI ought to be directed to undertake a de novo investigation in the incident. We take this view, conscious about the parameters precedentially formulated, as in our comprehension in the unique facts and circumstances of the case any contrary view would leave the completed process of crime detection in the case wholly inconsequential and the judicial process impotent. A court of law, to reiterate has to be an involved participant in the quest for truth and justice and is not expected only to officiate a formal ritual in a proceeding far-seeing an inevitable end signalling travesty of justice. Mission justice so expectantly and reverently entrusted to the judiciary would then be reduced to a teasing illusion and a sovereign and premier constitutional institution would be rendered a suspect for its existence in public estimation. Considering the live purpose for which judiciary exists, this would indeed be a price which it cannot afford to bear under any circumstance.

102. In the wake of the above, we are unhesitatingly inclined to entrust CBI, with the task of undertaking a de novo investigation in the incident of murder of Raju Pal, the husband of the appellant as aforementioned. Though a plea has been raised on behalf of Respondents 4 and 5 in particular that this incident has been exploited by the appellant for her political gains, we

are left unpersuaded thereby, as her achievements in public life must have been fashioned by very many ponderable as well as imponderable factors. In any view of the matter, such a contention, in our view, is of no consequence or relevance. We would, however, make it abundantly clear that this direction for entrustment of the investigation to CBI anew has been made in view of the exceptional features of the case as overwhelmingly demonstrated by attendant facts and circumstances indispensably necessitating the same.

103. We are aware that in the meantime, over a decade has passed. The call of justice, however, demands that CBI in spite of the constraints that it may face in view of the time lag, would make all possible endeavours to disinter the truth through its effective and competent investigation and submit the same before the trial court, as early as possible, preferably within the period of six months from today. The clarion call of justice expects a befitting response from the country's premier and distinguished investigating agency. On receipt of the report by CBI only, the trial court would proceed therewith in accordance with law and conduct and conclude the trial expeditiously and not later than six months. The interim order staying the ongoing trial is hereby made absolute."

(Emphasis supplied)

18.12. Later, the Apex Court in the case of **MANDAKINI DIWAN v. HIGH COURT OF CHHATTISGARH**¹² has held as follows:

"....

19. Considering the fact that Respondent 7 is a senior judicial officer any doubt or apprehension in the minds of the appellants who have lost their family

¹² (2024) 10 SCC 560

member may be dispelled by the investigation being carried out by CBI. This may result into doing complete justice and enforcing the fundamental right of getting a fair investigation.

20. In *AwungshiChirmayo v. State (NCT of Delhi)* [*AwungshiChirmayo v. State (NCT of Delhi)*, (2024) 10 SCC 568] this Court directed CBI to hold enquiry in the criminal matter related to murder of two cousins due to certain puzzling facts including inconclusive post-mortem report. It held as follows: (SCC pp. 572-73, paras 14-18)

"14. In a seminal judgment reported as *State of W.B. v. Committee for Protection of Democratic Rights* [*State of W.B. v. Committee for Protection of Democratic Rights*, (2010) 3 SCC 571 : (2010) 2 SCC (Cri) 401] , this Court has discussed in detail inter alia the circumstances under which the constitutional courts would be empowered to issue directions for CBI enquiry to be made. This Court noted that the power to transfer investigation should be used sparingly, however, it could be used for doing complete justice and ensuring there is no violation of fundamental rights. This is what the Court said in para 70: (SCC p. 602)

'70. ... 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 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 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.'

15. The powers of this Court for directing further investigation regardless of the stage of investigation are extremely wide. This can be done even if the charge-sheet has been submitted by the prosecuting agency. In *Bharati Tamang v. Union of India* [*Bharati Tamang v. Union of India*, (2013) 15 SCC 578 : (2014) 6 SCC (Cri) 566] , this Court allowed the writ petition filed by the widow of late

Madan Tamang who was killed during a political clash and directed investigation by CBI which would be monitored by the Joint Director, CBI. The following observations were made in para 44: (SCC p. 601)

'44. ... Whether it be due to political rivalry or personal vengeance or for that matter for any other motive a murder takes place, it is the responsibility of the police to come up to the expectation of the public at large and display that no stone will remain unturned to book the culprits and bring them for trial for being dealt with under the provisions of the criminal law of prosecution. Any slackness displayed in that process will not be in the interest of the public at large and therefore as has been pointed out by this Court in the various decisions, which we have referred to in the earlier paragraphs, we find that it is our responsibility to ensure that the prosecution agency is reminded of its responsibility and duties in the discharge of its functions effectively and efficiently and ensure that the criminal prosecution is carried on effectively and the perpetrators of crime are duly punished by the appropriate court of law.'

16. This Court has expressed its strong views about the need of Courts to be alive to genuine grievances brought before it by ordinary citizens as has been held in *Zahira Habibulla H. Sheikh v. State of Gujarat* [*Zahira Habibulla H. Sheikh v. State of Gujarat*, (2004) 4 SCC 158 : 2004 SCC (Cri) 999] .

17. It is to observe that unresolved crimes tend to erode public trust in institutions which have been established for maintaining law and order. Criminal investigation must be both fair and effective. We say nothing on the fairness of the investigation appears to us, but the fact that it has been ineffective is self-evident. The kith and kin of the deceased who live far away in Manipur have a real logistical problem while approaching authorities in Delhi, yet they have their hope alive, and have shown trust and confidence in this system. We are therefore of the considered view that this case needs to be handed over to CBI, for a proper investigation and also to remove any doubts in the minds of the appellants, and to bring the real culprits to justice.

18. In view of the discussion made above, the order of the Delhi High Court dated 18-5-2018

[*AwungshiChirmayo v. State (NCT of Delhi)*, 2018 SCC OnLine Del 9123] , dismissing the prayer of the present appellants to transfer the investigation to CBI is hereby set aside. The appeal is hereby allowed and we direct that CBI to hold enquiry in the matter. The case shall be transferred from SIT to CBI. The SIT, which has so far conducted the investigation in the matter, will hand over all the relevant papers and documents to CBI for investigation. After a thorough investigation, CBI will submit its complete investigation report or charge-sheet before the court concerned as expeditiously as possible.”

21. It is true that power to direct CBI to conduct investigation is to be exercised sparingly and such orders should not be passed in a routine manner. In the present case, the aggrieved party has raised allegations of bias and undue influence on the police machinery of the State of Chhattisgarh. Coupled with the fact that the thorough, fair and independent investigation needs to be carried out to find out the truth about the whole incident and in particular about the ante-mortem injuries. We are of the view that such a direction needs to be issued in the present case.

22. We accordingly allow this appeal, set aside the impugned order [*Mandakini Diwan v. High Court of Chhattisgarh*, 2023 SCC OnLineChh 1441] passed by the High Court and further direct CBI Respondent 8 to carry out complete and fair investigation and proceed in accordance to law into the incident and that too expeditiously considering the fact that the incident is of 2016 and submit a report to this Court. If CBI finds that an FIR needs to be registered, it may itself do so and proceed accordingly and bring such complaint to a logical conclusion.

23. However, if CBI comes to the conclusion that there is no material which it could collect which is not sufficient in ordinary course to submit a charge-sheet, it would close the proceedings. The State of Chhattisgarh is directed to extend all cooperation to CBI in conducting the investigation and provide all necessary papers and other strategic support to CBI as may be required.”

(Emphasis supplied)

18.13. In **AWUNGSHI CHIRMAYO v. GOVERNMENT OF NCT OF DELHI**¹³, the Apex Court holds as follows:

"....

12. Apparently there seems to be no reason for a young girl of 25 years of age to commit suicide. Prima facie it does not seem to be a case of suicide. The crime scene shows that blood was spattered on the floor and the bedsheet was completely drenched in blood. It appears to be a homicidal death and therefore the culprits must be apprehended.

13. Mr K.M. Nataraj, learned Additional Solicitor General of this Court, in his usual fairness submits that he has no objection, if the investigation in the present case is handed over to CBI.

14. In a seminal judgment reported as *State of W.B. v. Committee for Protection of Democratic Rights* [*State of W.B. v. Committee for Protection of Democratic Rights*, (2010) 3 SCC 571 : (2010) 2 SCC (Cri) 401], this Court has discussed in detail inter alia the circumstances under which the constitutional courts would be empowered to issue directions for CBI enquiry to be made. This Court noted that the power to transfer investigation should be used sparingly, however, it could be used for doing complete justice and ensuring there is no violation of fundamental rights. This is what the Court said in para 70: (SCC p. 602)

70. ... 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 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 credibility and instil confidence in investigations or*

¹³ (2024) 10 SCC 568

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."

(emphasis supplied)

15. The powers of this Court for directing further investigation regardless of the stage of investigation are extremely wide. This can be done even if the charge-sheet has been submitted by the prosecuting agency. In *Bharati Tamang v. Union of India* [*Bharati Tamang v. Union of India*, (2013) 15 SCC 578 : (2014) 6 SCC (Cri) 566] , this Court allowed the writ petition filed by the widow of late Madan Tamang who was killed during a political clash and directed investigation by CBI which would be monitored by the Joint Director, CBI. The following observations were made in para 44: (SCC p. 601)

44. ... Whether it be due to political rivalry or personal vengeance or for that matter for any other motive a murder takes place, it is the responsibility of the police to come up to the expectation of the public at large and display that no stone will remain unturned to book the culprits and bring them for trial for being dealt with under the provisions of the criminal law of prosecution. Any slackness displayed in that process will not be in the interest of public at large and therefore as has been pointed out by this Court in the various decisions, which we have referred to in the earlier paragraphs, we find that it is our responsibility to ensure that the prosecution agency is reminded of its responsibility and duties in the discharge of its functions effectively and efficiently and ensure that the criminal prosecution is carried on effectively and the perpetrators of crime are duly punished by the appropriate court of law."

16. This Court has expressed its strong views about the need of courts to be alive to genuine grievances brought before it by ordinary citizens as has been held in *Zahira Habibulla H. Sheikh v. State of Gujarat* [*Zahira Habibulla H. Sheikh v. State of Gujarat*, (2004) 4 SCC 158 : 2004 SCC (Cri) 999] .

17. It is to observe that unresolved crimes tend to erode public trust in institutions which have been established for maintaining law and order. Criminal investigation must be both fair and effective. We say nothing on the fairness of the investigation as appears to us, but the fact that it has been ineffective is self-evident. The kith and kin of the deceased who live far away in Manipur have a real logistical problem while approaching authorities in Delhi, yet they have their hope alive, and have shown trust and confidence in this system. We are therefore of the considered view that this case needs to be handed over to CBI, for a proper investigation and also to remove any doubts in the minds of the appellants, and to bring the real culprits to justice.

18. In view of the discussion made above, the order of the Delhi High Court dated 18-5-2018 [*AwungshiChirmayo v. State (NCT of Delhi)*, 2018 SCC OnLine Del 9123] , dismissing the prayer of the present appellants to transfer the investigation to CBI is hereby set aside. The appeal is hereby allowed and we direct that CBI to hold enquiry in the matter. The case shall be transferred from SIT to the CBI. The SIT, which has so far conducted the investigation in the matter, will hand over all the relevant papers and documents to CBI for investigation. After a thorough investigation, CBI will submit its complete investigation report or charge-sheet before the court concerned as expeditiously as possible."

(Emphasis supplied)

19. An analysis of the constellation of the judgments rendered by the Apex Court as quoted hereinabove, the unmistakable inference is, that the Apex Court in cases of murder, suicide or large scale public fraud have transferred the investigation to

independent agencies like the CBI. In all those cases investigation was found to be absolutely shoddy. The investigation was conducted by the local Police. The investigation at times, in certain cases, were directed to be conducted *de novo* and in certain cases were directed to conduct further, to what the local police have conducted.

20. The learned Additional State Public Prosecutor for the State has relied on several judgments of the Apex Court to contend that for the asking the transfer should not be made. The said submission is noted only to be rejected and the judgments relied on by him are all inapplicable to the facts of the case. Therefore, transfer to the CBI can never be for the asking. It can be only on weighing the conduct of investigation, on a case to case basis. There will be plethora of cases where investigation is sought at the hands of CBI for the asking, and those demands have been declined, as transfer of investigation to CBI cannot become a panacea to all ills in the conduct of investigation. But, in cases of the nature of the subject crime which is an alleged day light murder, the investigation cannot be recklessly done, as is done in

the case at hand. **The glaring lacunae is as noticed hereinabove, and if the glaring lacunae is considered, it does not inspire even a modicum of confidence in the conduct of investigation by the Investigating agency (local Police) or the CID. The very essence of justice is threatened, when those entrusted with its pursuit, falter so gravely. A case of such magnitude cannot be allowed to perish under the weight of a shoddy investigations.**

21. In the facts and circumstances of the case, noticing the fulcrum of the investigation, the subject case emerges as a classic illustration for transfer of investigation to CBI, not for conduct of further investigation, but for conduct of de-novo investigation. **The said direction is not merely warranted, it is imperative, as both the local Police and the CID have completely drowned the whispers of truth into deep waters by slipshod investigations.** Therefore, the entire investigation is required to be transferred to the CBI for its conduct *de novo*.

22. For the aforesaid reasons, the following:

ORDER

- (i) Writ Petition is allowed.
- (ii) The investigation in Crime No.372 of 2023 is placed at the hands of the CBI – Respondent No.2 for conduct of a **de novo** investigation.
- (iii) The local Police or the CID shall hand over entire material to the hands of the CBI forthwith.
- (iv) Respondent No.2, CBI shall conduct **de novo** investigation and file its final report before the concerned Court, within an outer limit of three months from the date of commencement of investigation.
- (v) The concerned Court shall not proceed with its proceedings till the CBI files its final report.
- (vi) Needless to observe that the local police shall cooperate with CBI during investigation, if needed and sought.

SD/-
(M.NAGAPRASANNA)
JUDGE

Bkp
CT:MJ