

IN THE SUPREME COURT OF INDIA

ORIGINAL JURISDICTION

Writ Petition (Crl.) of 2019

IN THE MATTER OF

Manohar Lal Sharma Advocate

S.C.B.L.No.-1

Supreme court of India, New Delhi-01

Resident of , 31, Gyangudery

Vrindaban- Mathura , U.P.

Petitioner

VERSUS

1. State of Telangana

Through Chief Secretary

Telangana Secretariat

Block C , 3rd Floor , Khairabad

Hyderabad- Telangana 500022

2. Central Bureau of Investigation (C.B.I.)

Through Director

Plot no.5-B , 6th floor , CGO Complex

Lodhi Road New Delhi 11,0003

3. UNION OF INDIA

Through secretary

The Ministry of Home affairs

North Block, New Delhi, Delhi 110001

4. Smt Jays Bachchan (M.P.)

PRATEEKSHA, 10 North-South Road,

J.V.P.D. Scheme, Juhu, Mumbai 400049.

5. Smt. Swati Maliwal

C-Block, 2nd floor, Vikas Bhawan,

ITO, IP Estate, New Delhi, Delhi 110002

Respondents

Writ petition (PIL) U/Art. 32 & 21 of the
constitution of India r.w. 330 of IPC

To,
The Hon'ble Chief Justice of India
And His Companion Judges of
The Supreme Court of India.

The Petitioner most respectfully Showeth:

- 1) That Petitioner, citizen of India & by profession an advocate practicing at above address, is filing the present writ petition (PIL) under Art. 32 & 21 of the constitution of India r.w. s. 330 of IPC for invoking his fundamental right to protect fundamental right of the citizen of India challenging killing of 4 arrested persons in Police custody on the behest of political leaders and media outrage as well as seeking protection of life and liberty of the citizen of India from police killing , mob lynching and extra judicial killing contra to the Art. 21 couple with further relief to issue writ of mandamus for appropriate direction/action after investigation by the CBI within the supervision of this Hon'ble court / SIT and to file their report before this Hon'ble Court for further action & prosecution of the police personals, leaders, media channels involved in the scenario in accordance of law in the interest of justice.
- 2) That Petitioner has not filed any representation.
- 3) That cause of action arose to the petitioner as on 6.12.2019 due to killing of 4 arrested person in police custody due to political demand by the political leaders i.e. R-5 & R-6 & others, and media trial hue and cry to execute them immediate hanging for the offence of so called rape and murder, even not ascertained by the police, which is a serious violation of Art 21 as well as murder of innocent citizen of India. It's a serious injury to the constitutional systems and endanger further life & liberty to the citizen of India. R-5 issued statement for mob pinching and appreciated impugned killing as der Zayed Durust Zayed" while R-6 set on hunger strike for quick hanging/ killing them for rape and murder.
- 4) That petition is being filed for the following constitutional question;
 - a) Whether killing a arrested person in police custody without trial is not violation of Art 21 of the constitution of India?
 - b) Whether political leaders and media , who created pressure, media trial, hue and cry to hang / kill arrested persons without court final order are

also not liable for abatement for impugned killing in police custody?

5) Brief facts revealed to the petitioner via police statements issued to press from time to time are as follow;

- a. 28TH November 2019 around at 1 a.m. family of the Vaternity doctors filed a complaint of missing her with Police that while she was returning home from a hospital, went missing late on Wednesday. They spoken her last at 9.22 p.m. saying that her scooty tyre was flatted.
- b. She had even spoken to her younger sister and said she had a flat tyre and some strangers were trying to help her. She also urged her sister to continue talking to her over the phone, as she was afraid of the people who were offering help. Minutes later, her phone was switched off, forcing her family to approach the police with a complaint that she was missing.
- c. 28. 11. 2019 in the early morning her body was found near a culvert on the Hyderabad-Bengaluru National Highway.
- d. The charred body of a 26-year-old veterinary doctor was found at Shadnagar on the city's outskirts on Thursday morning.
- e. Cyberabad Police Commissioner VC Sajjanar said more than 10 teams are working on the case. "The motive behind the crime is not known. We are probing different angles and gathering clues," said Sajjanar, without ruling out the possibility of rape.
- f. All the four were arrested on charges of gang-raping and murdering the victim less than 24 hours after the crime. It was widely believed that only circumstantial evidence was available.
- g. The case was still under investigation. The charge sheet had not been prepared yet. No question arises for trial. The court was yet to hear the accused and the prosecution. It was not yet proven that the accused

who were shot dead were the actual culprits of the gang rape and murder.

- h. It was not yet proven that whether rape was done. And police have taken all four persons in remand on 4th December 2019 from Magistrate court for 7 days.
- i. On 6.12.2019 State investigation police team headed by the police commissioner killed all the four arrested persons in Police custody at Chatanpally, Shadnagar on 6.12.2019 in the wee hours, between 3 am and 6 am. I have reached the spot and further details will be revealed, police Commissioner VC Sajjanar told the media.

6) The police declared;

- a) The vet worked at Kollur of Nawabpet mandal in Mahbubnagar district. On Wednesday, she returned home from work and immediately left to Gachibowli as she had an appointment with a doctor. She probably went to Gachibowli in a share cab and returned to the toll plaza the same way. CCTV footage from near the toll plaza showed her walking to her scooter. When she reached her vehicle, two persons, believed to be truck drivers, told her that her tyre was flat. However, when she tried to move on, they said she would be in trouble if the vehicle broke down midway, and offered to help her. Speaking on the phone, she urged her sister to continue talking to her, as the situation was not fine and she was feeling scared. As she went incommunicado abruptly, her family approached the Shamshabad police and a missing case was registered. Meanwhile, around 30 km from the toll plaza, a farmer noticed a charred body of a woman underneath a culvert at Chatanpally village of Shadnagar mandal, and alerted the police. The neighboring police stations were immediately notified, and the Shadnagar police alerted

her family.

- b) They arrived at the spot, and with the help of a partly-burnt scarf and a gold pendant, identified that the body was her's. While investigations were underway at the spot, the police made a breakthrough as they found a pair of footwear, undergarments, a purse and an empty alcohol bottle at an open plot near the toll plaza. The spot was near the place where she is believed to have parked her scooter.
- c) The police suspect she could have been murdered on the plot and her body was dumped under the culvert on the highway. The place and the discovery of liquor bottles gave credence to the theory that she may have been sexually assaulted before she was burnt to death.
- d) At least four teams under the leadership of Deputy Commissioner of Police Prakash Reddy are probing the gruesome crime. Each team is headed by a senior official and two of them are women.
- e) Based on the information gathered from accused, the teams on Thursday thoroughly searched the scenes of the crime to collect more evidence.
- f) Investigators scanned the area close to Tondupally toll gate on Outer Ring Road (ORR) on the outskirts of Hyderabad where the victim was gang-raped on the night of November 27. Police said to have recovered the victim's mobile phone.
- g) Another group of officials gathered more clues from Chatanpally near Shadnagar town, where the body was set ablaze. The investigators once again checked the truck used by the accused to shift the body from ORR to Shadnagar.
- h) In addition to technical evidence gathered in the form of CCTV

footage on the ORR, the police are looking for forensic evidence against the accused.

- i) According to press statement by Police they identified and arrest accused person on the statement of a petrol pump worker informed that two persons on a red scooty (victim's scooty) approached him for petrol.

True copy of the Indian Express report dt 28.11.2019 is being filed as **annexure P-1 (13-14)**

True copy of the Hindustan time report dt 1.12.2019 is being filed as **annexure P-2 (15-16)**

- 7) That on 4.12.2019 The Telangana High Court on Wednesday issued orders designating the first additional district and sessions judge at Mahbubnagar to adjudicate the Disha rape and murder case. Though it would technically not be a fast-track court, it would act as one since the officer has been assigned to hear the case. The state government has designated the judicial officer's court as a special court, which works more-or-less like a fast-track court for a speedy trial.
- 8) That on 4.12.2019 on Wednesday, a magistrate court in Shadnagar granted the police custody of the four accused for seven days. The police will take them into custody on Thursday at Charlapally jail, where they are now in judicial remand. The police had sought custody of the accused for 14 days, but only seven days were allowed.
- 9) On 6.12.2019 early morning at 3 a.m. Police taken them to spot under police security /custody and killed all of them between 3 a.m. to 6 a.m. Police declared they killed them in self defense. According to police sources to press the four men , Mohammad Arif - Mohammad Arif, J Naveen, J Shiva and Chennakesavulu - died when the police, in "an act of

self-defence" opened fire at them after they wrested weapons and tried to open fire and flee at Chatanapalli in Shadnagar.

True copy of the Indian Express report dt 6.12. 2019 is being filed as **annexure P-3 (17-18)**

10) That till date it is not decided either by any evidence that lady was raped or gang raped and burned. It is yet to be established that arrested four persons are accused of offence of rape and murder. Charge sheet yet to be prepared. However due to personal, political, media hue and cry and public demand 4 personal without identified legally, factually and scientifically police declaring them accused of so called gang rape and murder of the girl. Police killed all of them stating that they were running out therefore in their self defense they killed them.

11) That it is important to say that Smt Jaya Bachchan issued several statement in media as well as in the parliament demanding mob chilling of the accused persons of rape. In support of killing she stated to profess "der aaye durust Aaye". (better late and did right".

True copy of the Indian Express report dt 06.12..2019 is being filed as **annexure P-4 (19-20)**

12) That Swati Maliwal , Chairman Delhi women commission, welcomes Telangana police action for killing four arrested persons commenting court systems as incorrect. She further said that if legal system not strong, police will repeat such incident. (see Annexurre P-3) It is important to say that she had set on hunger strike for quick extra judicial killing of these arrested people few days back.

13) That the petition is being filed on the following amongst

GROUND

- a) Because it is a clear case of planned killing of four innocent persons who were arrested by the police without any evidence in hand. Till date police have no legal and medical evidence in hand that there was raped, gang raped with the victim girl. Found charred body could not disclose offence of rape. But due to media hype, leaders statements four persons have been arrested and killed declaring them accused of gang rape and murder of the girl.
- b) Because it's a clear violation of Art 21 of the constitution of India. A persons is innocent till guilt is proved. However in the present case even the guilt was not established but 4 persons have been declared of gang raped and killed by the police due to media hue and cry when they were in police custody. It's a killing in police custody of four innocent persons. Therefore all the police officers involved in the killing plan must be arrested and after CBI inquiry they must be prosecuted in accordance of law.
- c) Because Art 21 guarantee to each citizen of India for a fair trial. It's never allow any police personals for extra -judicial killing .it's an offence liable to be life imprisonment.
- d) Because constitution of India as well as no law of the world including Indian law authorized police to take their lives and declaring them accused of any crime including rape and murder. This power belong to court. There is no iota of evidence in hand of police to says prima facies that she was raped or gang raped.
- e) Because department of police has been given a legal right to use force while making arrest of any culprit involved in crime and to disperse the unlawful assembly only. In no other field use of force is allowed by any agency deployed in law enforcement. In the present case they were

already in police custody and on remand from the court.

- f) Because section 330 of I.P.C. Says if any public servant causes injury to any person to extort confession he will be liable for punishment with imprisonment up to seven years. The law of the country does not permit the police personnel to use force illegally.
- i) It is known to every person that police use force while conducting interrogation of any suspect or accused of any crime and sometimes death occurs during interrogation which not only gives bad name to the department, the concerned police officers are sent to jail after registration of case of causing death in police custody.
- g) Because impugned killing is in police custody and concerned police officers / personals involved in directly and indirectly are liable to be prosecuted in accordance of law after having CBI investigation in this scenario.
- h) Because why they were taken to crime spot at 3 a.m. in middle night. There is no evidence if the accused were capable - by means of being armed or something similar - to pose threat to life or lives of the policemen who took them for recreating the crime scene. They were in police custody. No question arose to have any weapons with them and what means police adopted to capture the accused when they allegedly tried to escape.
- i) Because impugned killing is not an encounter during attempt to arrest accused persons. On the other hand all four were under police custody on remand for 7 days from the court. No question of self defense shall arise. It's a brutal killing to satisfy political & media greed.
- j) Because in the present case killed 4 persons were already arrested and in police custody on remand on 4.12.2019 and has been killed on 6

.12.2019 between 3 a.m. to 6 a.m. It's a cold night and they were taken on killing spot by the police under police security /custody. Subject matter attracts Air 1985 SC 416 in state of U.P. vs Ram Sagar yadav in which Hon'ble Supreme court issued direction when deceased was died in police custody due to beaten by the police. All police personal were put for life imprisonment.

k) Because impugned killing is an killing in police custody. It cannot be termed as police encounter in fighting between police and criminals during police effort to arrest them. It must be investigated by the CBI for further legal prosecution. In the meanwhile all police personals involved in the investigation and killing must be arrested till further orders to avoid any manipulation in evidences in the interest of justice for fair investigation and justice.

l) Because impugned killing is not Encounter, describe extrajudicial killings by the police or the armed forces, allegedly in self-defence, when they encounter suspected gangsters or terrorists. This is the case of killing in police custody during investigation.

m) **Because** justice is to be done for all within art 21 of the constitution. No political leader and media have any right seeking killing of any arrested persons by police for any heinous crime unless until it is not proved beyond reasonable doubt. Their statement is also provocation to the Hyderabad police for killing these innocent arrested persons. Bothe Jaya Bachchan as well as Swati Maliwal are also be held as a bettor for such heinous crime. It is learnt that Swati maliwal set for hunger strike for killing of these arrested persons few days back.

14) That looking trend of regular statement of leaders, specially by Jaya Bachchan and Swati Maliwal & others, media hype and debate in channels

seeking extra judicial killing of arrested persons in the name of rape and protection of women innocent arrested persons are being killed and suffering injustice without judicial prove based upon media trial and political pressure. It ust be stopped by this Hon'ble court to maintain constitutional systems within Art.21 and media and leaders must be prohibited to put such hype by way of debate or statement for ever until trial is not concluded and arrested persons are not held finally guilty .

15) That Petitioner has not filed any Petition before this Hon'ble Supreme court or in any High court for the relief prayed herein.

PRAYER

Therefore within the aforesaid facts and circumstances and in the interest of justice, equity and fair play this Hon'ble court be pleased to issue proper writ of mandamus/proper writ direction

- a. for appointment of an SIT , consisting retired Supreme Court judges, to conduct investigation with the help of CBI under the regular supervision of this Hon'ble court, and to file their report before this Hon'ble court for further action and prosecution of the all involved police personals, leaders and media channels in accordance of law in the interest of justice.
- b. Be pleased to issue proper writ direction for proper action against respondent no. 5 & 6 for provocation, pressuring police for extra judicial killing of arrested persons in police custody without concluding of trial ?
- c. Be pleased further to allow compensation @ Rs. 20 lakhs to the family members of each killed persons in police custody in the interest of Justice. AND
- d. Be pleased to issue proper writ order prohibiting media and leaders to conduct media trial, to release any statement / to conduct debate during pending trial for rape, murder and crime against anyone

including women until trial is not concluded.

- e. Pass such other order or further orders, as this Hon'ble court may deem fit and proper under the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER AS ARE DUTY BOUND
SHALL EVER PRAYS.

Drawn & settled by:

Filed by: Manohar Lal Sharma Advocate

Manohar Lal Sharma Advocate

Petitioner-in-person

Drawn on : 07.12.2019

Filed on : 07.12.2019