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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 1046/2017 & CrI.M.A. 15798/2017 (Addl. Plea)**

**RAMHET MEENA**

..... Petitioner

Represented by: **Mr. Aditya Aggarwal, Ms.  
Samia Malik & Mr. Anikit  
Advocates.**

versus

**UNION OF INDIA & ORS**

..... Respondent

Represented by: **Ms. Nandita Rao, ASC with SI  
Vivek Malik, PS Vasant Kunj,  
Delhi.**

**CORAM:**

**HON'BLE MS. JUSTICE MUKTA GUPTA**

**ORDER**

**07.12.2017**

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1. By this petition the petitioner seeks transfer of investigation in case FIR No. 79/2016 under Section 304A IPC registered at Police Station Vasant Kunj, South and to incorporate Section 302 IPC.
2. At the outset, learned counsel for the petitioner states that he is not pressing for the relief of Section 302 IPC in the FIR and presses the present petition confined to the relief for transfer of investigation to the CBI.
3. On 30.01.2016 at around 01:34 p.m. Petitioner received a call from Ryan International School where his child, namely, Master Devansh aged 6 years was studying. The unfortunate information to the petitioner was that his child had been taken to Indian Spinal Injury Hospital, Vasant Kunj as he was unwell and on reaching the hospital petitioner was informed that his son was brought dead. On the statement of the petitioner, FIR No. 79/2016 under Section 304A IPC was registered at Police Station Vasant Kunj (South).

4. The petitioner is aggrieved by the investigation carried out by the investigating officer of PS Vasant Kunj (South) and seeks transfer of the investigation to CBI. A counter affidavit has been filed to the petition by Inspector Sh. Sanjay Sharma, PS Vasant Kunj (South) replying to the averments in the Petition and the investigation carried out pursuant to the registration of F.I.R.

5. As per the counter affidavit at 2:45 p.m. on 30.01.2016, a PCR call was received at PS Vasant Kunj (North) regarding admission of a boy, namely Devansh, aged about 6 years, son of the petitioner at Indian Spinal Injury Centre and the Investigating Officer alongwith staff reached the hospital where it was informed that the child was brought to hospital at 1:24 p.m. by principal of the school and was declared brought dead at 1:50 p.m.

6. In the MLC of the child the hospital noted that “patient being found in a gardener tank at Ryan International School and to Emergency Room in an unresponsive state, vomiting over the face positive, CPR started immediately, as per DALS guidelines critical care called, CPR continued 30:2 after five cycles no response, no cardiac activity in spite of all efforts positive and patient declared dead at 1.50 PM.”

7. During investigation crime team of the District South and CFSL team from the CBI inspected the spot where the deceased child was drowned and on thoroughly examining the underground water tank after draining the water of tank, articles i.e. one black colour shoe, one lunch box, two specs and one cricket ball were recovered and seized.

8. On 31.01.2016 the medical room of the school was also inspected and blazer & shoe of the deceased were seized. Though the entire premises of Ryan School is covered by the CCTV footage with 24 CCTV Cameras

installed, however, no CCTV camera was found installed at or near pump room where child Devansh was found drowned in underground water tank.

9. On scrutiny of the CCTV footage the child was first noted in Camera No. 14 at 09.09.52 AM while he was coming towards his Classroom from morning assembly with his Class teacher and other children of his class. Thereafter no movement of child Devansh could be noted. Further the CCTV cameras installed outside the class room of deceased child covered movements of right side towards ground floor washroom only, but if somebody went towards left side after coming out from the class room and moved towards water tank in question through amphitheatre then no CCTV Camera was installed to cover that area.

10. Further at 13:20 PM on 30.01.2016 from the footage of CCTV of Camera No. 8, Devansh was found to be carried by another student Prajwal Sehrawat in his lap, going upstairs towards the medical room located at first floor alongwith school staff. Thereafter the boy was seen at around 13:24 PM being taken by the school staff away from the school premises, in private vehicle.

11. The observation of the CFSL expert team of the CBI is as under:-

(i) *“It is expected that the child would have come out of his class along with his tiffin box otherwise it is less likely that a stranger might have entered into his class in presence of other students/teachers, locate his school bag, take out his tiffin from the bag and then throw it in the water tank from where it was recovered.*

(ii) *The tiffin box and his spectacles were found intact from the water tank which indicates that the child reached the water tank by himself and was not forced by*

*anyone or else these two things would have been found at the place where he was forced or stopped.*

*(iii) The location of the water tank is such that it is possible for the child to reach the water tank if the door of the pump house is not locked.*

*(iv) The opening of the water tank is large enough that the child could fall even when the cover of the water tank was partially closed.*

*(v) Opening of the water tank is present along one corner and the area is relatively low lit than outside. Adaption of eyes takes a few minutes while moving from brighter to a darker region. Within such time it is not possible to see things correctly. Probably the child could not see the opening of the water tank properly and fell inside the water tank along within his tiffin box”.*

12. After conclusion of investigation the investigating agency opined that six person i.e. Principal/teacher and officials of the Ryan International School were negligent in their duties and has filed a charge-sheet against them for offence punishable under Section 304A IPC.

13. Learned counsel for the petitioner heavily relies on following portions of the report of the learned SDM:-

*“2.4 Body of Devansh was found in a water tank. This water tank is situated inside the space created under Amphitheatre of the school. In order to utilize the space below the amphitheatre, school has several rooms closed by small iron doors. One of this small gate leads into small space used as Pump room (image 3 and 4). This space is filled with inflammable tyres, open wiring and electric motors. From pump room, a small window kind of opening (image 5) leading into tiny dark Tank Room (situated beneath the amphitheatre). The height of the Tank room would be merely around two feet. On the left side of the innermost chamber*

*i.e. the tank room there is water tank. When inspected on 30.01.2016 it was covered with a heavy square stone slab and was having five feet deep water.*

*Principal first came out with the statement that kid had very high energy level. Principal was asked to tell when she came to know about this condition of the kid. Her answer was, “after his death”. Principal did not know Devansh personally before his death. It is important to note that no complaints regarding Devansh ever came across to Class I to V Supervisor and Principal.*

*According to Devansh parents, once Devansh’s class teacher had made a remark in his diary that he is ‘hyperactive’. Devansh’s parents asked his class teacher about the ‘hyperactive’ entry in his diary. As an advice, class teacher told Devansh’s parents to send him to her residence at Kalkaji for tuitions where she would improve his behaviour (as she claimed to have corrected many such students earlier). Thrice Devansh went to his class teacher’s residence, for an hour each. She charged for these sessions @ 1000/ hour and took a payment of ₹ parents not to reveal this tuition secret to anybody in school. Worried, parents sought an opinion from Pediatric Psychiatrist in AIIMS who did not find anything abnormal. This Pediatric Psychiatrist even wished to speak to the class teacher to find out the basis of such unnecessary fear she had created in minds of the parents.*

*This seems to be a ploy by the concerned class teacher to extract money from children parents by creating fear in their minds about kid’s behaviour. Moreover the class teacher doesn’t seem to possess any qualification or experience in giving any such treatment).*

*Devansh was a very bright child, quick learner and very active in all fields as evident from all the assignments where he scored 20/20, 10/10 with starts and also had won a gold medal in Mathematics aptitude quiz from the school. Child was found to be normal but school portrays him as some kind of ‘special kid’. It clearly shows the school management carried out a deliberately*

*campaign to malign the image of a bright student.*

*On the contrary, the marks scored by Devansh in neighbours, classmates clearly points out that he was a bright child with sharp mind. There is no mention of any abnormal behaviour displayed by Devansh. Rather fuelling such unfounded baseless statements is a mental harassment. Therefore, this caste all the more aspersions as to why the school emphasizes on child being hyperactive. Hidden motives on part of School management to camouflage the real reason cannot be ruled out.*

*4.3.3 As per the statements given by Gardner and pump operator Yogesh, Pump room remains open at variable time. It is used by gardeners and simply remains bolted. It is locked only when the pump operator deems it fit.*

*On inspection it has been found that this pump room and motor room are interconnected inside. They have open wires hanging; spare tyres bundled up, a motor and a water tank inside (innermost chamber) which is not at all adequately lit. Also there are no security measures nor any account of who all, have access to pump room nor any log book maintained (mentioning opening and closing times of these rooms). This slack and foolhardy attitude of school management cannot be ignored.*

*4.3.4 Also a stone slab covering the opening of water tank is seen inside tank Room.*

*On inspecting the water tank on 30.01.2016 evening a stone slab was found closing the opening of water tank. It is highly preposterous to suggest and improbable that Class I child could have lifted the stone slab all by himself and jumped into the tank along. Also there is no signature or any prohibited access earmarked, which again points out towards rash and negligent behaviour of school management.*

*On the other hand if at all it assumed that there was a stone slab covering the entire opening of water tank it is highly preposterous to suggest and improbable that Class I child could have lifted the*

*stone slab all by himself and jumped into the tank.*

*4.3.5 Although the school is functioning normally, there was not even a single person to administer Medical Aid in Medical room in spite of the announcement being made continuously.*

*It is a usual norm that in such a scenario, medical exigency is anticipated by the medical staff that becomes extra alert. Further even while transporting the child to hospital it is the untrained electrician who is giving mouth to mouth respiration to the parents were informed when the child is being taken to the hospital and not at the time he is found missing from the class.*

*4.5 Further it is only Electrician who asked Mr. Pooran and Mr. Vijay specifically if anybody has searched beneath amphitheatre and then he is directed to do the same. It is the electrician who goes with help of his mobile torch is the first one who spotted the child floating in water tank. On coming outside the pump he told Mr. Vijay, Mr. Pooran and all the other people standing outside pump room, about the child in water tank but none came for the rescue.*

*It creates a question mark in the mind of inquiring authority that while so many other people are searching for Devansh in different sections, wings, rooms of the school but none happened to lookout for the missing child in these motor rooms beneath amphitheatre. It is only the electrician who points out this particular location and later spots the child in the water tank.*

## **Chapter 5**

### **Character of Master Prajwal Sehwat**

*Role of Class XI-A student: In this tragedy, there was only one silver lining. It was the exemplary courage and conviction shown by the Master Prajwal Sehwat. It is not known how long it would have taken for Ryan School to rescue the body of Devansh in absence of Master Prajwal Sehwat. It was he who showed the excessive courage among the many able bodied men showing complete lack of character. As per the statement of Class XI-A*

*student Prajwal Sehwat, at around 12:40PM, he came to know that a student of Class-I is missing. The statement of Master Prajwal is worth reproducing here:*

*I was then moving to Amphitheatre side where Mr. Vijay (Basketball coach) called me. He was standing on stairs in Amphitheatre (near tank side). He asked me to call for some staff from swimming pool. Just then I could sight Mr. Rajeev who was also walking pass through Amphitheatre and so I told Mr. Vijay Sir same and he called Mr. Rajeev.*

*Mr. Rajeev then immediately went near pump room where Mr. Anand Bhaiyya was standing near pump room gate*

*Anand bhaiyya pehle ghusse, phir Rajeev Sir aur phir main andar gaya*

*Rajiv Sir and Anand Bhaiyya went further inside, I was standing near inner gate. Anand Bhaiyya then pointed out to Rajeev Sir while flashing light inside tank that “dekho bacche ka joota aur pant dikh rahi hai, aur aap kapde kholker andar chale jao”.*

*And then Rajiv Sir said since I am feeling suffocated inside, they all came out. Outside few sweeper bhaiyya were standing Mr. Rajiv asked one of the sweeper bhaiyya to take off clothes and rescue child. The sweeper refused.*

*Meanwhile I went inside saw the opening to tank (no stone) took off my shoes and blazer and told Rajeev Sir that I will go and went in it (the water was till my chest level) With the help of holder, I climbed down as it was dark I asked Rajeev Sir to give me his mobile torch light and with the help of torch light I saw Devansh body floating in water. I handed over the mobile torch back to Rajeev Sir and pulled Devansh towards me and further up holding his leg. Rajeev Sir pulled him out.*

*We came out of the Pump Room, I also came out of tank and took Devansh in my arms and rushed towards medical room.*

*Medical room is on first floor, where a bed was empty. I laid down Devansh on empty bed and gave him pumps to revive him, pressed his stomach also asked few aunties standing there to rub his feet and hand.*

*Some vomits (liquid) from Devansh fell over my hand and on his blazer.*

*Also Rajeev Sir took out his handkerchief and gave mouth to*

*mouth breath.*

*Then everybody said that car is ready we need to take him to hospital so I took Devansh near main entry, outside Blue wagon R was waiting I made Devansh lie on back seat with Sonia Ma'am and Anand Bhaiyya. In front with driver was Aarti ma'am.*

*It speaks in volumes regarding benevolent nature., sharp mind, exemplary courage, quick reflexes, able decision making ability and prompt medical aid delivered to Devansh. All these exceptional qualities shown by Master Prajwal Sehrawat are highly commendable. The qualities demonstrated by this one single student shows what humanity stands for.*

14. The inquiry conducted by the SDM was a preliminary inquiry and even in the inquiry the finding of the learned SDM is that it was the case of gross negligence which aspect is not disputed and has also come in the conclusion of the investigating agency on the basis of which charge-sheet has been filed. Learned counsel for the petitioner having given up the prayer for adding of Section 302 IPC to the investigation this Court repeatedly requested the learned counsel for the petitioner to address on the issue as to what further investigation was required to be done, but besides pointing out towards the inquiry of SDM there is nothing concrete which has been pointed out. Charge-sheet has already been filed and in case the learned trial court during the course of the trial finds that any further offence has been committed or offence has been made or if there is involvement of any other person it would proceed in accordance with law.

15. Trial Court Record has been summoned. Having perused the entire Trial Court Record this court finds no ground for transfer of the investigation.

16. Petition is dismissed.
17. Trial Court record be sent back.

**MUKTA GUPTA, J.**

**DECEMBER 07, 2017**  
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