

Judgment reserved on: 18.07.2023

Judgment delivered on: 20.12.2023

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application No. 1168 of 2022

(Under Section 482 of the Cr.P.C.)

Rajeev Mohan Sharma Applicant

Versus

Apeksha Nautiyal and Another Respondents

with

Criminal Misc. Application No. 1171 of 2022

(Under Section 482 of the Cr.P.C.)

Rajeev Mohan Sharma Applicant

Versus

Arti Thakur and Another Respondents

Presence:-

Mr. Rajeev Mohan Sharma, applicant in-person.

Mr. Piyush Garg, learned counsel for respondent no.1.

Mr. Lalit Sharma, learned counsel for the CBI/
respondent no.2.

Per: Hon'ble Pankaj Purohit, J.

These two C-482 applications are directed against the common judgment and order dated 15.06.2022 passed in Criminal Revision No.91 of 2022, *Apeksha Nautiyal Vs. C.B.I.* and Criminal Revision No.93 of 2022 *Km. Arti Thakur Vs. C.B.I.*, by learned Special Judge, Anti Corruption (C.B.I.) Uttarakhand/First Additional Session Judge Dehradun, whereby, the revision petitions filed by respondents-Km. Apeksha Nautiyal and Km. Arti Thakur, were allowed and the judgment and order passed by learned Special Judicial Magistrate C.B.I./Additional Chief Judicial Magistrate-II, Dehradun, dated 29.04.2022 accepting the protest petitions filed by the applicant-Mr. Rajeev Mohan Sharma, was quashed.

2. Since, both these C-482 applications are against the judgment and order passed by the learned Revisional Court dated 15.06.2022 and are arising out of same set of facts, both these C-482 Applications are being decided by this common judgment.

3. The facts of the case, which resulted into filing of a first information report against the respondents, are very pathetic and due to anguish of a father, who lost his young daughter, who was pursuing her second year BDS Course from Seema Dental College and Hospital, Rishikesh. It is the case of the applicant (father) that his daughter Km. Anjali Sharma pursuing her Second Year BDS Course and was living in girls hostel of the said college. On 12.02.2015, the applicant made a call to his daughter-Km. Anjali Sharma, but the call was picked up by Km. Arti (one of the accused), but, she did not give any satisfactory reply to the applicant; then he made another call to Km. Nitika Trehan, who informed him that his daughter fell down from the roof of the hostel and was taken to Nirmal Ashram Hospital, Rishikesh. The applicant reached Nirmal Ashram Hospital, Rishikesh, where, he was informed that his daughter had already passed away. According to the applicant, he was informed that his daughter committed suicide by jumping from 5th floor of the hostel. It is further case of the applicant that for various reasons, he did not believe the theory of suicide by his daughter, rather he was of the considered view that death of his daughter was suspicious, as she was harassed and tortured by her classmates and was imputed charge of breaking lock and stealing the articulator by respondent-accused Arti Thakur. It is due to the torture and harassment; his daughter fell ill and

was under-treatment of Dr. Lt.Col. J.S. Rana. According to the applicant, the death was not normal for various reasons as under:

- (i). Applicant was informed by Km. Nitika Trehan that Km. Anjali Sharma was taken to Nirmal Ashram Hospital, Rishikesh, however, college administration stated that first-Km. Anjali Sharma was taken to AIIMS Rishikesh for treatment, after that to Bhardwaj Hospital, Rishikesh and then, to Nirmal Ashram Hospital, Rishikesh, where she was admitted by Rahul Negi at 01:30 PM and after 15 minutes of treatment at 01:45 PM, she was declared dead.
- (ii). Dr. Ajay Sharma of Nirmal Ashram Hospital Rishikesh, during investigation, in his statement stated that she was brought dead.
- (iii). As per the postmortem report, which was drawn on the body of deceased-Km.Anjali Sharma on the same day i.e. 12.02.2015 at 08:30 PM, deceased sustained only five injuries and there was one fracture in her leg, which according to the applicant was not possible, if she fell down from 5th floor.
- (iv). At the place, where according to the college administration, dead body was found after falling down from 5th floor of the hostel, there was no blood found as per the version of the Investigating Officer. According to the applicant, in case of his daughter falling from 5th floor and sustaining open injuries; it was not possible that on the spot, no blood would be there.

4. On these reasons, it is the case of the applicant that the theory of suicide of his daughter-Km. Anjali Sharma was a concocted one and the story was created by the college administration to save the college and the respondent-accused and classmates of his daughter Km. Anjali Sharma.

5. Due to this suspicion, the applicant lodged a first information report after cremation of his daughter on

14.02.2015 against the respondents-accused and others in Police Station Rishikesh, District Dehradun, on the basis of which, a Case Crime No.31 of 2015, under Section 306 IPC was lodged at 04:05 PM.

6. After investigation, the Investigating Officer submitted charge-sheet No.126 of 2015 dated 15.06.2015 against seven persons, administrative members of the Seema Dental College and Hospital, Rishikesh under Section 304A IPC and exonerated the respondents-accused classmates of the deceased-Km. Anjali Sharma.

7. The applicant, feeling aggrieved by submission of final report against the respondent-accused, moved C-482 Application No.1018 of 2015 *Rajeev Mohan Sharma Vs. State of Uttarakhand and others*, before this Court with a prayer for transferring the investigation to C.B.I.

8. The Coordinate Bench of this Court vide its order dated 27.10.2016 directed the Central Bureau of Investigation (C.B.I.) to further investigate the matter *qua* the role played by the girls (classmates)/respondents-accused, which led to the death of Km. Anjali Sharma.

9. C.B.I./respondent registered a C.B.I. Case as RC7(S)/2016/CBI/SCB/Lucknow on 20.12.2016 under Section 306 IPC against the respondents-accused- Km. Apeksha Nautiyal, Km. Aarti Thakur and Km. Nigar Anjum, Km. Nitika, Km. Kajal Saxena, Km. Komal Kamboj and Km. Tanvi. The respondent-CBI submitted its Status Report/Final Report on 10.08.2017/30.11.2017 before this High Court in a sealed cover, wherein, too, all the girls/classmates including the respondents-accused were exonerated.

10. The applicant against the final report dated 30.11.2017 submitted by the respondent-C.B.I., filed a protest petition and a supplementary petition in the Court of learned Special Judicial Magistrate C.B.I./Additional Chief Judicial Magistrate-II, Dehradun on 06.01.2018 and 29.01.2018 respectively, which were accepted by the learned Special Judicial Magistrate C.B.I./Additional Chief Judicial Magistrate-II, Dehradun by passing a detailed order on 29.04.2022 and rejected the final/closure report dated 30.11.2017 submitted by Investigating Officer Mr. R.N. Sharma, Additional Superintendent of Police, CBI/SCB/Lucknow and consequently, cognizance was taken under Section 306 of IPC against respondents-accused Apeksha Nautiyal and Arti Thakur and issue summon to the respondents-accused.

11. It is feeling aggrieved by the aforesaid judgment and order dated 29.04.2022, both the respondents-accused-Apeksha Nautiyal and Arti Thakur filed criminal revision No. 91 of 2022 *Apeksha Nautiyal Vs. C.B.I.* and criminal revision No. 93 of 2022 *Km. Arti Thakur Vs. C.B.I.* before the Court of Special Judge, Anti Corruption (C.B.I.) Uttarakhand/First Additional Sessions Judge, Dehradun, which were allowed by reason of a common judgment and order dated 15.06.2022, which is impugned in the present C-482 applications as stated above, by the applicant.

12. Counter affidavit(s) has been filed by the respondent-accused as well as by the respondent-C.B.I. in both the C-482 applications. The respondents-accused Km. Apeksha Nautiyal and Km. Arti Thakur reiterated the story of falling down of Km. Anjali Sharma-daughter of

the applicant, from the 5th floor of the hostel and contended that the respondent-CBI, after a thorough investigation, filed a final report exonerating all the accused girls/ classmates including the respondents-accused. It is also submitted that C.B.I. not only conducted the Narco Test of the respondents-accused but also obtained forensic and medical report and also considered the suicide note left by the deceased-Km. Anjali Sharma. After evaluating the entire evidence collected during investigation, C.B.I. submitted a final report finding that no offence was made out against the respondents-accused and found it a case of suicide.

13. It is further explained by the respondents-accused that the applicant's daughter Km. Anjali Sharma did not fell ill because of any alleged torture rather she was under treatment of Dr. J.S. Rana, Assistant Professor (Psychiatry), Doon Hospital and during the course of investigation, C.B.I. was informed that deceased-Km. Anjali Sharma was suffering from emotional and psychological problems and stress and depression related symptoms which sometimes develop suicidal tendencies in patients. Dr. J.S. Rana, doctor of applicant's daughter, was also examined by the respondent-C.B.I. and during the investigation, he opined that applicant's daughter was suffering from panic disorder and non epileptic attacks; she was having complaint of giddiness and having stress and depression related symptoms; she was being prescribed medicines for neuron tonic and anti depression/anxiety sedatives. It is also contended by the respondents-accused in their counter affidavit(s) that applicant's daughter stayed in the hostel for just 20 days, between October 2014 to 12.02.2015, on which date she

committed suicide. She went home on 30.01.2015, came back on 06.02.2015 and again returned home on the same day. She came back to the hostel on 11.02.2015 at around 07:30 PM and died on next day at around 01:00 PM. According to the respondents-accused, during this period they along with other girls were appearing in examination. It is also denied that the call of the applicant on his daughter's mobile, was picked up by respondent-Km. Arti Thakur. Respondents-accused also denied any kind of torture and harassment by them to Km. Anjali Sharma-daughter of the applicant.

14. The C.B.I. in its counter affidavit has stated that after this Court's order of transferring of the investigation to C.B.I., the investigation was done, which was monitored by this Court and after a detailed investigation in every aspect either scientific or forensic, the Investigating Officer of the C.B.I. did not find any offence made out against the respondents-accused and accordingly, the final report was submitted.

15. Heard Mr. Rajeev Mohan Sharma, in-person, Mr. Peeyush Garg and Mr. Lalit Sharma, learned counsel for the respondents-accused and C.B.I., in detail.

16. The applicant reiterated the facts of the case as mentioned in both C-482 applications and mainly contended that death of his daughter-Km. Anjali Sharma was not a case of suicide. He submitted to unfold his argument, which is self-contradictory. On the one hand, he alleges torture and harassment of his daughter by the respondents-accused and other classmates, which resulted into the illness of his daughter and on the basis of attending peculiar facts and circumstances discussed

above, on the other hand, he argued that it was not a suicide or normal death, but, it nowhere stated that due to torture and harassment, allegedly at the hands of respondents-accused, Km. Anjali Sharma committed suicide.

17. As against this, on the basis of the injuries, the doctor reportedly found on the person of the deceased, absence of blood on the spot, from where the dead body was said to have recovered, it was emphasizedly submitted that she was murdered somewhere else and the body was kept there, from where it was recovered. Though, it was neither pleaded in the C-482 applications nor in the first information report.

18. He emotionally argued that entire blood of his daughter-Km. Anjali Sharma was drained out by the respondents-accused and others in the hostel, her body was pale and without blood and that was the reason, blood was not found on the spot.

19. In and all from the arguments, it may be deduced that instead of a case of abetment of suicide against the respondents-accused, he was trying to make out a case of murder against the respondents-accused and the other members of the hostel administration.

20. I have very carefully perused the record of the case and the voluminous closure report submitted by the C.B.I. on record, which is annexed by the applicant himself. It is reflected from the report that the C.B.I. investigation which was being monitored by this Court, investigated on all angles as suggested by the applicant and it found no case against the respondents-accused Km. Apeksha Nautiyal and Km. Arti Thakur.

21. The Coordinate Bench of this Court vide order dated 30.10.2017 also closed C-482 Application No.1018 of 2015, by which the investigation was transferred to C.B.I. and was being monitored by this Court, and opined that the investigation was conducted by the C.B.I. in just and proper manner and asked C.B.I. to submit its final report to a proper forum i.e. in the Court of Special Judge, C.B.I. Dehradun. This Court, with all sense of sensibility, after going through the record also found that the C.B.I. touched all the aspects of the investigation as doubted by the applicant.

22. Having perused the impugned judgment recorded by the learned Special Judge, Anti Corruption (C.B.I.) Uttarakhand/First Additional Session Judge Dehradun, this Court found no infirmity in the judgment and order dated 15.06.2022, whereby the cognizance and summoning order recorded by the learned Special Judicial Magistrate C.B.I./Additional Chief Judicial Magistrate-II, Dehradun dated 29.04.2022 was set aside.

23. Consequently, the upshot of the aforesaid discussion results into dismissal of both the C-482 applications. No material was found to exercise the inherent power of this Court in the case. Accordingly, both the C-482 applications are dismissed.

(Pankaj Purohit, J.)
20.12.2023

PN/-