



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

WRIT PETITION NO. 10851 OF 2021 (GM-POLICE)

BETWEEN:

SRI SHIVA KUMAR J B
S/O BOMMAIAH
AGED ABOUT 52 YEARS
HALEOORU VILLAGE
HOSAKERE POST
MADUGIRI TALUK
TUMKUR DISTRICT-572 132.

...PETITIONER

(BY SRI. SHANKARAPPA.,ADVOCATE)

AND:

1. THE SECRETARY
DEPARTMENT OF HOME AFFAIRS
VIDHANA SOUDHA
BENGALURU-560 001.
2. THE DIRECTOR GENERAL OF POLICE
STATE OF KARNATAKA
NRUPATHUNGA ROAD
BANGALORE-560 001.
3. THE SUPERINTENDENT OF POLICE
TUMKUR, TUMKUR DISTRICT.
4. THE POLICE INSPECTOR
MADHUGIRI POLICE STATION
MADHUGIRI.

...RESPONDENTS

(BY SRI. MAHANTESH,AGA)

Digitally
signed by
SUMA B N
Location:
HIGH COURT
OF
KARNATAKA



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECT THE R-1 TO 3 TO CONSIDER THE REPRESENTATION OF THE PETITIONER AT ANNEXURE-J, K, L DATED.09.04.2021 10.4.2021 RESPECTIVELY FOR REFERRING THE MATTER FOR INVESTIGATION TO CBI BANGALORE AND ALSO ISSUED DIRECTION TO THIS HONBLE COURT.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL

ORAL ORDER

Petitioner herein is the father-in-law of one S. M. Naveen Kumar. Said S.M.Naveen Kumar is accused of commission of murder of his own father S.G.Manjunath and a case in Crime No.41/2001 for the offence punishable under Section 302 and 201 of Indian Penal Code, has been registered on 01.03.2021 at Madugiri police station.

2. Present petition is filed seeking following reliefs;

"WHEREFORE, it is humbly prayed that this Hon'ble Court pleased to issue a writ of mandamus to directing the respondent no.1 to 3 to consider the representation of the petitioner at Annexure-J, K and L dated 09.04.2021 and 10-04-2021 respectively for referring the matter for investigation to CBI, Bangalore and also issued direction as this Hon'ble Court as deems fit, in the interest of justice and equity."



3. Learned counsel for the petitioner reiterating the averments urged in the memorandum of petition submits;

(a) that aforesaid S.G.Manjunath, the father of said S.M. Naveen Kumar, was found dead under suspicious circumstances. That there were property disputes between deceased-S.G.Manjunath's children from his first wife, second wife and his sister. A suit in OS No. 4258/2016 was also pending consideration in that regard. Initially the case was registered as UDR No.3/2021 under Section 174C of Cr.PC. And the post mortem had suggested death of the deceased-S.G.Manjunath was due to shock and hemorrhage resulting of injuries sustained on the spleen.

(b). The case was initially registered against unknown person. Said Naveen Kumar had therefore filed a complaint on 29.03.2021 requesting the jurisdiction police to initiate action against the persons involved in the death of his father. The respondent- police, without conducting the enquiry as sought for, arrested the said Naveen Kumar himself on 03.03.2021, falsely implicating him of commission of the offence. Thus, he



submits, Naveen Kumar has lost faith and confidence in the investigation by the local police.

(c). that there is a larger conspiracy behind this mysterious death of the father of the accused, indicating several persons being involved, one such instance, he submits was revealed when the accused S.M.Naveen Kumar filed an application under Section 191 Cr.PC seeking direction to the Investigation Officer to secure the call records of the wife and children of the deceased-S.G.Manjunath, which application was allowed and the investigation officer had obtained the call records which fortified the apprehension of the accused with regard to involvement of second wife and other children of the deceased-S.G.Manjunath and sister, and other persons are police personnel. Thus, he submits facts which have been discovered indicate the petitioner has been falsely implicated and this is a fit case to be handed over to CBI. Since he was incarcerated, petitioner who is the father-in-law of the said S.M. Naveen Kumar is before the Court on his behalf seeking direction for a CBI inquiry into the matter.



4. Learned AGA submits that the investigation is completed, charge sheet is also filed and that no extraordinary circumstances are made out by the petitioner warranting handing over of the investigation to CBI.

5. Heard. Perused the record.

6. Apex Court in the case of **STATE OF WEST BENGAL AND ORS., VS. COMMITTEE FOR PROTECTION OF DEMOCRATIC RIGHTS, WEST BENGAL AND ORS** reported in **AIR 2010 SC 1476** has laid down the parameters for handing over of the investigation to CBI, which is extracted hereunder;

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

(i) The fundamental rights, enshrined in Part III of the Constitution, are inherent and cannot be extinguished by any constitutional or statutory provision. Any law that abrogates or abridges such rights would be violative of the basic structure doctrine. The actual effect and impact of the law on the rights guaranteed under Part III has to be taken into account in determining whether or not it destroys the basic structure.

(ii) Article 21 of the Constitution in its broad perspective seeks to protect the persons of their lives and personal liberties except according to the procedure established by law. The said article in its broad application not only takes within its fold enforcement of the rights of an accused but also the rights of the victim. The State has a duty to enforce the human rights of a citizen providing for fair and impartial investigation against any person accused of commission of a cognizable offence, which may include its own officers. In



certain situations even a witness to the crime may seek for and shall be granted protection by the State.

(iii) In view of the constitutional scheme and the jurisdiction conferred on this Court under Article 32 and on the High Courts under Article 226 of the Constitution the power of judicial review being an integral part of the basic structure of the Constitution, no Act of Parliament can exclude or curtail the powers of the constitutional courts with regard to the enforcement of fundamental rights. As a matter of fact, such a power is essential to give practicable content to the objectives of the Constitution embodied in Part III and other parts of the Constitution. Moreover, in a federal constitution, the distribution of legislative powers between Parliament and the State Legislature involves limitation on legislative powers and, therefore, this requires an authority other than Parliament to ascertain whether such limitations are transgressed. Judicial review acts as the final arbiter not only to give effect to the distribution of legislative powers between Parliament and the State Legislatures, it is also necessary to show any transgression by each entity. Therefore, to borrow the words of Lord Steyn, judicial review is justified by combination of "the principles of separation of powers, rule of law, the principle of constitutionality and the reach of judicial review".

(iv) If the federal structure is violated by any legislative action, the Constitution takes care to protect the federal structure by ensuring that the Courts act as guardians and interpreters of the Constitution and provide remedy under Articles 32 and 226, whenever there is an attempted violation. In the circumstances, any direction by the Supreme Court or the High Court in exercise of power under Article 32 or 226 to uphold the Constitution and maintain the rule of law cannot be termed as violating the federal structure.

(v) Restriction on Parliament by the Constitution and restriction on the executive by Parliament under an enactment, do not amount to restriction on the power of the Judiciary under Articles 32 and 226 of the Constitution.

(vi) If in terms of Entry 2 of List II of the Seventh Schedule on the one hand and Entry 2-A and Entry 80 of List I on the other, an investigation by another agency is permissible subject to grant of consent by the State concerned, there is no reason as to why, in an exceptional situation, the Court would be precluded from exercising the same power which the Union could exercise in terms of the provisions of the statute. In our opinion, exercise of such power by the constitutional courts would not violate the doctrine of separation of powers. In fact, if in such a situation the Court fails to grant relief, it would be failing in its constitutional duty.



(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 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."



7. The facts and circumstances narrated in this petition as noted above, in the considered view of this Court, do not fall and meet the requirement of the said parameters. In any event the accused himself has filed an application before the judicial magistrate under Section 91 of Cr.PC as noted above seeking for further investigation of the matter which application came to be allowed and the direction issued in the said order has been duly complied with by the respondent-police. It is not that the Magistrate concerned is bereft of the powers for ordering further investigation, if so required.

8. At this juncture, learned counsel for the petitioner submits that if liberty is reserved to the petitioner to seek further orders and direction from the jurisdictional Magistrate to the jurisdictional Police Officer if required, purpose of the petition will be served.

9. Submission placed on record.

10. In view of the above, petition is ***disposed of***. Petitioner is at liberty to seek such orders and directions by the concerned Magistrate to the Investigation Officer as provided



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WP No. 10851 of 2021

under law and if such application or request is made,
appropriate order in accordance with law shall be passed.

SD/-
(M.G.S. KAMAL)
JUDGE

RU, List No.: 1 SI No.: 42