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

+ W.P.(CRL) 2066/2014

GOSTO SARKAR

..... Petitioner

Through

:Mr. A.K. De, Mr. Zahid Ali and Mr.
Rajesh Dwivedi, Advs.

Versus

STATE (GOVT OF NCT OF DELHI)

DELHI & ORS

..... Respondents

Through

:Mr. Mukesh Gupta, ASC with SI
Shri Gopal, P.S. Shakarpur

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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01.05.2015

By this writ petition under Article 226 of the Constitution of India read with section 482 Cr.P.C., petitioner has prayed for transferring the investigation to Central Bureau of Investigation (CBI). Petitioner's sister Smt. Ujala Sarkar has gone missing from 1st June, 1999. She was married to one Ramesh Yadav in the year 1990. She was living in Delhi with her husband.

Petitioner has alleged in the writ petition that three daughters, namely, Pinki, Rinku and Usha were born from the wedlock and they are now, 22 years, 20 years and 18 years of age, respectively. His brother-in-law was not happy with Smt. Ujala Sarkar as she had given birth to three daughters.

He sent all his three daughters to his native place at Danapur, Bihar. Subsequently, he claimed that he boarded Smt. Ujala Sarkar in a train for Village Habaspur in Bihar. Petitioner contends that his sister has been killed by her husband. In nutshell, case of the petitioner is that investigation is not being done properly by the Police Station Shakarpur, where FIR No. 671/2014 under Section 365 IPC was registered pursuant to the directions of this Court dated 8th September, 2014 in WP(Crl.) No. 489/2004.

A perusal of order dated 8th September, 2014 makes it clear that FIR was registered pursuant to the directions of this Court. Subsequently, petitioner was not satisfied with the progress of investigation, thus, again filed a petition being WP(Crl.) No. 594/2010 titled Gosto Sarkar vs. State (Govt. Of NCT of Delhi) & Ors. alleging therein that matter was not properly investigated, which has been disposed of by this Court vide order dated 1st November, 2013. While disposing of the writ petition, a learned Single Judge of this Court has noted that sincere efforts to trace the missing lady namely, Smt. Ujala Sarkar were made, thus, no further orders were required to be passed in the petition. It has been further noted in the order that W.T. message was flashed all over India; missing person squad was informed; enquiry was made at Village Habas Pur, District Patna,

whereupon it was revealed that Smt. Ujala Sarkar had reached her village and met her three daughters. She had gone to make STD calls from her house at Patna but did not return. Statements of Sh. Deepak, Sh. Umesh Kumar, owner of Jai Matadi STD; Sh. Virender Yadav, owner of SB STD Booth and other residents of the village, including Sh. Tetar Rai S/o Sh. Charan Rai, Sh. Raj Nath Rai, Sh. Teepan Rai, Sh. Mahesh Rai and Sh. Rajgir Rai were recorded. Case was closed as untraced on 13th October, 2005, however, it was again reopened and information was sent to CBI for publishing the details of missing ladies in newspapers; hue and cry notice was circulated; and the reward was declared and all other efforts were made. It has been further noted that husband of the lady was produced before the court of Metropolitan Magistrate, but he refused to participate in the polygraph test.

In the above facts, I do not find it to be a fit case to transfer the investigation to CBI, more particularly when power of transferring such investigation must be exercised in rare and exceptional cases, where the court finds it necessary in order to do justice between the parties and to instill confidence in the public mind, or where investigation by the State police lacks credibility and it is necessary for having “a fair, honest and

complete investigation”, and particularly, when it is imperative to retain public confidence in the impartial working of the State agencies.

In the present case all efforts have been made to trace the missing lady. Her husband was in Delhi, while his wife had reached the village and had met her daughters who are now major and they have made a statement before the police officials to this effect.

Accordingly, writ petition is dismissed.

A.K. PATHAK, J.

MAY 01, 2015

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