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

+ **W.P.(CRL) 714/2016**

RAMESH VOHRA

..... Petitioner

Through: Mr.Surendra, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr.Roshan Lal Goel & Mr.Anuj
Aggarwal, Advocates for UOI/R-1
Mr.R.S.Kundu, A.S.C. for the State
with Mr.Ankit Kumar Gulia &
Mr.Kranti Bhandari, Advocates with
Inspector Tej Ram PS Bhajan Pura

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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29.04.2016

1. This petition has been filed by petitioner Ramesh Vohra, father of the deceased Pooja with the prayer for transfer of investigation of case FIR No.185/2016 under Section 498-A IPC, PS Bhajan Pura to CBI.
2. The case of the petitioner is that on the basis of complaint made by him case FIR No.185/2016 was registered at PS Bhajan Pura for the offence punishable under Section 498-A IPC.
3. The petitioner is aggrieved by the fact that the case should have been registered under Section 302 IPC as in his complaint he has stated before the police that husband of his daughter is responsible for her death.
4. Status report has been filed which is to the following effect:-

“Most respectfully, it is submitted that one information was received in PS Bhajanpura vide DD No.6A, regarding admission of one lady Pooja Chawla, W/o Kshitij Chawla, R/o B-1/11A, Yamuna Vihar, Delhi, age 34 years, in Max Hospital, Patparganj, Delhi, after eating unknown poison at 10.40 a.m. on 21st February, 2016. On receiving the same, SI Pramod alongwith PSI Ashish approached the hospital and collected MLC No.5170/16 of above said Pooja Chawla, on which doctor endorsed, history of physical examination “c/o Pain Abdomen one day, c/o loose stools & vomiting multiple episodes 3 day, H/o urine incontinence” and “patient unfit for statement” and nature of injuries “opinion reserved” and in remarks “? Poisoning of unknown substance”. On account of this reason, statement of patient Pooja Chawla could not be recorded. On 22nd February, 2016, one information was received in PS Bhajanpura vide DD No.4A, regarding expiry of the lady Pooja Chawla during treatment. On receiving the same, SI Pramod along with PSI Ashish approached to the Max Hospital, Patparganj and statement of RameshVohra, father of the deceased Pooja Chawla and Kusum, mother of the deceased, were recorded in this regard and as per statements Pooja Chawla was got married with Kshitij in November, 2005. Post mortem of deceased Pooja Chawla w/o Kshitij Chawla R/o B-1/11A, Yamuna Vihar, Delhi was got conducted in GTB Hospital mortuary vide PM No. 245/16 and after that dead body of the deceased Pooja Chawla was handed over to her husband Kshitij Chawla and a case u/s 498-A vide FIR No.185/16 has been registered at PS Bhajanpura, Delhi and investigation was taken up.

During the course of investigation, on 22nd February, 2016, statement of Smt. Kusum, mother of deceased Pooja, has been recorded u/s 161 Cr.P.C. On 24th February, 2016, viscera of deceased Pooja Chawla has been collected from GTB mortuary and the same was seized in present case and accused Kshitij has been interrogated in this regard. On 5th March, 2016 post mortem report of PM No. 245/16 has been collected in which doctor opined that cause of death shall be given after receiving chemical analysis report of the viscera. Viscera of the deceased has been sent to FSL for obtaining opinion in regard of any poisonous substance. On 6th March, 2016, mobile phone

of accused Kshitij has been seized in present case and on 23rd March, 2016, mobile phones of complainant Ramesh Vohra and his daughter Bhawna Sabharwal has been seized in this regard, statement u/s 161 Cr.P.C. of Bhawna Sabharwal has been recorded in this regard and all mobiles phone above has been sent to FSL for obtaining data, but the report of the same is not ready till date. CDR, ownership of mobile phone of accused Kshitij and deceased Pooja Chawla has been collected in this regard. FSL result of mobile phones and chemical analysis report of viscera yet to be collected. However, we will abide the order passed by this Hon'ble Court.”

5. In this case since viscera report is still awaited from the FSL, matter is under investigation. The investigating agency has to proceed further as per the report received from FSL as well on the basis of statement of all the witnesses. The death in this case has taken place after more than 10 years. The deceased got married in November, 2005 and she has expired on 22nd February, 2016.

6. In *Sakiri Vasu vs. State of U.P. and Ors. (2008) 2 SCC 409*, the Supreme Court in paragraphs 10 & 33 of the Report has observed as under:-

*“10. It has been held by this Court in **CBI and Anr. v. Rajesh Gandhi and Anr.** 1997CriLJ63 that no one can insist that an offence be investigated by a particular agency. We fully agree with the view in the aforesaid decision. An aggrieved person can only claim that the offence he alleges be investigated properly, but he has no right to claim that it be investigated by any particular agency of his choice.*

*33. In **Secretary, Minor Irrigation & Rural Engineering Services U.P. and Ors. v. Sahngoo Ram Arya and Anr.** 2002CriLJ2942 , this Court observed that although the High Court has power to order a CBI inquiry, that power should only be exercised if the High Court after considering the material on record comes to a conclusion that such material discloses prima facie a case calling for investigation by the CBI*

or by any other similar agency. A CBI inquiry cannot be ordered as a matter of routine or merely because the party makes some allegation.”

7. It being case where allegations have been made against the husband and whats app messages are being relied upon by the family of the deceased, the matter does not require any investigation by CBI. What other penal provisions are attracted in the case will ultimately be decided on the basis of investigation and FSL result.
8. Writ petition is dismissed.

PRATIBHA RANI, J.

APRIL 29, 2016

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