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IN THE HIGH COURT OF DELHI AT NEW DELHI

DECIDED ON : 2nd MAY, 2018

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W.P.(CRL) 692/2018 & CRL.M.A.No.6484/2018

ANCHAL CHAUHAN Petitioner

Through : Mr.Krishan Kumar, Advocate with
Mr.S.P.Nangia, Advocate.

versus

THE STATE & ORS Respondents

Through : Mr.Rajesh Mahajan, ASC.
SI Pawan Kumar, PS Farsh Bazar.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (Oral)

1. Present writ petition has been preferred by the petitioner Anchal Chauhan under Article 226 of the Constitution of India read with Section 482 Cr.P.C. for transfer of the investigation in case FIR No.56/2018 registered under Section 498A/306 IPC at PS Farsh Bazar to some other investigating agency. Status report is on record.

2. I have heard learned counsel for the parties and have examined the file. The petitioner's sister Perna expired on 16.02.2018 at around 09.30 p.m. at the matrimonial home. She had received fatal injuries due to fall from the fourth floor of the house. First she was taken to Surya Hospital; from there, she was taken to

MAX Hospital where she was declared brought dead. Undisputedly, matrimonial dispute existed between the deceased and her in-laws. She had lodged several complaints before her death. Complaints dated 16.10.2009 and 23.06.2012 and statements recorded on 17.12.2013 and 01.10.2015 where the victim had levelled allegations of physical and mental torture / beatings to her by her husband under the influence of liquor were recovered from the almirah of the victim's residence. These complaints were lodged at PS Farsh Bazar. Nothing is on record to show if the police of PS Farsh Bazar ever took any serious action on the said complaints.

3. Soon after the incident, complaint dated 16.02.2018 was lodged by the victim's brother whereby it was informed that on 16.02.2018 at around 09.00 p.m. the victim was constantly calling the petitioner Anchal Chauhan, sister Anjali Solanki and brother-in-law Harikishan Solanki informing that her husband was drunk and was abusing and beating her. It was also alleged in the complaint that the victim was scared and was having apprehension to be killed by her husband. She pleaded her relatives to come and save her. In the complaint, it was further informed by the informant that subsequently he was told that his sister (the victim) had jumped from the 4th floor of the building of her residence and was admitted in the hospital. Strange enough, despite the complaint disclosing commission of cognizable offence and the suspicious circumstances in which the victim expired, the investigating agency did not lodge any FIR. Finally, on 20.02.2018 FIR under Section 498A/306 IPC was lodged at PS Farsh Bazar. It was, prima facie, taken as if the victim had

committed suicide by jumping from the fourth floor of the house. No cogent material was available before the investigating agency to form an opinion that it was a case of suicide.

4. By an order dated 22.03.2018, the learned Metropolitan Magistrate by a comprehensive order treated the complainant's application as an application under Section 156(3) Cr.P.C.; directed the investigating agency to register an FIR under Section 302 IPC and to carry out the investigation as per law. It is informed that the said order has been challenged by the victim's husband before the Sessions Court and the matter is listed there for hearing. It is informed that the Sessions Court has directed the investigation to be carried out uninfluenced by the order dated 22.03.2018.

5. It was specifically recorded in the order dated 22.03.2018 that the investigating agency was unable to collect the post-mortem report till date. Statements of the children of the victim were recorded belatedly. No arrest has been made so far. It is alleged that since the children are in the custody of the victim's husband, there is every possibility of their being tutored in connivance with the investigating agency.

6. On perusal of the facts and circumstances of the case, it can prima facie be inferred that the investigation carried out so far is not up-to-the-mark and despite the incident to have taken place on 16.02.2018, no material progress in the case has been shown. The apprehension of the petitioner that the investigation is not fair seems reasonable as the learned Metropolitan Magistrate had to intervene to direct registration of FIR under Section 302 IPC.

7. In the interest of justice and to allay the apprehensions of bias of the victim's close relatives on parents' side, the investigation is transferred to Crime Branch.

8. Crime Branch shall conduct investigation as per law uninfluenced by the observations made in the order. Observations in the order shall have no impact upon the proceedings pending before the Sessions Court in revision.

9. The writ petition stands disposed of in the above terms. Pending application also stands disposed of.

(S.P.GARG)
JUDGE

MAY 02, 2018 / tr



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