

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

% Decided on: 27th July, 2018

+ **W.P.(CRL) 3145/2017**

SHALINI PANDE & ANR

..... Petitioners

Represented by: Mr. Siddhartha Dave and
Ms.Jemtiben AO, Advocates.

versus

THE STATE GOVT OF NCT OF DELHI & ORS Respondents

Represented by: Mr. Piyush Singhal, Advocate
for Mr. Ashish Aggarwal,
Additional Standing Counsel
for State with Inspector Puran
Pant, SOS/Crime.
Mr. Nikhil Goel, Mr. Ashutosh
Ghade and Mr. Gurpreet Hora,
Advocates for CBI.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

1. Status report has been handed over by the State, which is taken on record.
2. Petitioners who are parents of late Dr.Shashwat Pande, who after completing his MBBS had joined St.Stephens Hospital, Delhi for his specialization in Radiology in March, 2015 seek transfer of investigation to CBI in case FIR No.210/2017 under Section 302 IPC registered at PS Subzi Mandi.
3. On 19th February, 2016 a complaint was lodged by Dr. Nittin R. Parkhe, Head of Department (HOD), Radio Diagnosis to the Director, St. Stephens Hospital reporting that a scuffle had taken place between Dr.Shashwat Pande and Dr.Suyash Gupta, who was also working in the

same department. On 20th February, 2016 Dr. Shashwat Pande lodged a complaint with the HOD, Radiology, St. Stephens Hospital against Dr.Suyash Gupta for stalking, mental harassment, physical assault and deliberate shifting of residence by Dr.Suyash Gupta from his previous location to next to the residence of the deceased in Karol Bagh. On 23rd February, 2016 an Inquiry Committee was constituted to conduct an inquiry into the allegations against Dr. Suyash Gupta, which submitted its report on 27th February, 2016 concluding that Dr.Suyash Gupta was stalking and harassing Dr.Shashwat Pande. Dr. Suyash Gupta was thereafter let off with stern warning and asked to stay away from the deceased.

4. Besides the two complaints, as noted above, there were other complaints against Dr.Suyash Gupta of rude behaviour and dangerous activities followed by further complaints by the deceased Dr.Shashwat Pande. On 14th February, 2017 in the presence of his parents Dr.Suyash Gupta gave an undertaking of good behaviour however, things did not change and his conduct was abusive and uncalled for. On the intervening night of 24th/25th August, 2017 the deceased was murdered while he was on emergency duty and his dead body was discovered by the staff of St. Stephens Hospital on the morning of 25th August, 2017 around 8.00 AM lying on the floor in pool of blood, with his throat slit open and stab wounds present all over his body and private parts. Consequently, FIR No.210/2017 under Section 302 IPC was registered at PS Subzi Mandi, New Delhi.

5. Initially the investigation was conducted by the local police however, later it was transferred to Crime Branch, Delhi Police on 20th March, 2018. During the investigation Crime Team as well as FSL team were called and the scene of crime was inspected. CCTV footage of the St. Stephens

Hospital was also examined and it was revealed that Dr.Shashwat Pande was sleeping in Room No.30, St. Stephens Hospital and the last person who entered the said room by opening the door through electronic card was Dr.Suyash Gupta.

6. During investigation car bearing No.UP-82N-3583 belonging to Dr.Suyash Gupta was recovered after the incident from exit gate of ISBT, Anand Vihar on 25th August, 2017. CDR of the mobile phones used by Dr.Suyash Gupta were examined and raids were conducted at various places in India including Etah, Agra, Jaipur, Bhopal, Dehradoon, Rishikesh, Haridwar, Kanpur, Allahabad, Gwalior, Sitapur, Gola, Palia, Dhankhadi Border, Banbasha Border and Tanek Pur etc. but no clue was found. Investigation revealed that after leaving Delhi Dr.Suyash Gupta went to Haridwar and stayed at Hotel Chitra Heritage on 28th August, 2017 from 3.30 AM to 9.15 AM on the fake identity of Rajeev Pandey and checked out on the same day. All bank accounts of Dr.Suyash Gupta, were checked. They were found to be functional at State Bank of India, Bank of Baroda, Canara Bank and Indian Overseas Bank. The bank accounts reveal withdrawals even in the month of November, 2017 from various accounts. The arrival/departure by Dr.Suyash Gupta were obtained from Central Foreigners Bureau, Intelligence Bureau, Ministry of Home Affairs and his last departure and arrival were in April, 2017 prior to the incident. Efforts were even made to check from the online shopping gateways if any detail of Dr.Suyash Gupta was available. Relatives, friends and colleagues of Dr.Suyash Gupta were also interrogated and their CDR analysis was also done however, no clue was obtained. Since Dr.Suyash Gupta, was habitual of playing online games; request was sent to the Manager of the Play

Station-4 for tracking of Sony Playstation-4 ID of Dr. Suyash Gupta which revealed that related services are taken care by Sony Interactive Entertainment Europe Limited, London, U.K. and not by Sony India Pvt. Ltd. Further, two more gmail IDs used by Dr.Suyash Gupta were revealed. However, from there also no clue could be found out.

7. A writ petition filed by Ms. Vandana Gupta, mother of Dr.Suyash Gupta, seeking writ of habeas corpus was disposed of by the Division Bench of this Court on 21st February, 2018 directing the learned Metropolitan Magistrate to review the investigation and for that purpose list the matter atleast once in a month.

8. As per the status report submitted by DCP Crime Branch, SIT consisting of 6 inspectors, 13 Sub-Inspectors, 14 ASI and 16 Head Constable and Constables was constituted for the purpose of investigation of this case and a reward of 50,000/- has already been declared by Delhi Police which has been enhanced to ₹2 lakhs now. Non-bailable warrants were also got issued against Dr.Suyash Gupta and he has now been declared a proclaimed offender and a look out circular has also been opened against Dr.Suyash Gupta.

9. Despite extensive investigation as noted above, no clue of Dr.Suyash Gupta has been found.

10. Grievance of the petitioners still continues and they seek transfer of case to CBI as despite best efforts, the various wings of Delhi Police have not been able to arrest Dr.Suyash Gupta and it is felt that he has left the country, thus it would be appropriate if a centralized agency investigates the matter.

11. Opposing the prayer of the petitioners for transfer of investigation to CBI, learned counsel for CBI submits that in case investigation is now transferred to CBI, CBI will have to start investigation afresh from its inception, when the entire investigation has already been done and the only remaining investigation required to be monitored is to arrest the accused.

12. Learned counsel for CBI submits that as regards monitoring is concerned the Division Bench of this Court vide its order dated 21st February, 2018 while disposing of W.P. (Crl) 3199/2017 has already directed the learned Metropolitan Magistrate to monitor the investigation and review the progress of investigation and for that purpose list the matter atleast once every month.

13. It is further contended that the remaining investigation now is essentially to arrest the accused and does not fall in the category of the exceptional situations laid down by Hon'ble Supreme Court in the decision reported as 2010 (3) SCC 571 State of West Bengal & Ors. vs. Committee for Protection of Democratic Rights, West Bengal & Ors.

14. No doubt the investigation by the local police and the Crime Branch has gone far ahead and the accused has already been zeroed down but despite their best efforts Crime Branch has not been able to trace the accused, which would thus need some more scientific evidence to be collected to trace the accused. Since from the facts it is felt and expected by the agencies that Dr.Suyash Gupta has already left the country, it would be in the interest of justice if the investigation in the case is transferred to CBI, which may be able to trace the accused by locating through its various IP addresses and seek return of the accused to India in case he has fled outside the country.

15. Consequently, the investigation in the FIR No.210/2017 under Section 302 IPC registered at PS Subzi Mandi, Delhi is transferred to CBI.

16. Petition is disposed of.

17. Order dasti.

(MUKTA GUPTA)
JUDGE

JULY 27, 2017

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