



2024:DHC:7451



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

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***RESERVED ON – 28.08.2024.
PRONOUNCED ON – 26.09.2024.***+ **W.P.(CRL) 710/2024, CRL.M.A. 6644/2024, CRL.M.A. 9607/2024****GEETA GANDHI**PetitionerThrough: **Mr.P.K.Dey, Sr.Adv. with Mr.Rajesh Mahajan, Advt.**

versus

CENTRAL BUREAU OF INVESTIGATION & ANR.

.....Respondents

Through: **Mr.Amol Sinha, ASC (Crl.) for the State
Ms.Anubha Bhardwaj, SPP for CBI
with Mr.Vishal Sharma, Mr.Ujjwal Chaudhary and Ms.Senjoyoti, advts.****CORAM:****HON'BLE MR. JUSTICE DINESH KUMAR SHARMA**

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JUDGMENT

DINESH KUMAR SHARMA,J :

(A) BRIEF FACTS:

1. The present petition has been filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C. seeking direction to respondent No.1 to register an FIR under Section 302/120B/34 IPC and direct investigation against the suspected persons for hatching conspiracy and murdering petitioner's son (Kartik Gandhi, Aged 33 Years) under mysterious circumstances. The petitioner is also seeking police protection for herself.
2. Briefly stated the facts are that the petitioner is a widow woman, aged 62 years and that she is a victim of constant harassment, torture and mental agony since the last 15 years by the suspected persons. The petitioner has alleged that her son Kartik Gandhi was murdered by the suspects under a vicious conspiracy hatched in Delhi and executed in Leh. The petitioner is aggrieved by the inaction of the respondents in relation to the complaint dated 14.02.2024 filed by the Petitioner seeking registration of FIR and further investigation in the matter.
3. The petitioner has alleged that the suspected persons are a group of land grabbers, property dealers and fraudulent litigators in the local area of the petitioner and are targeting the Petitioner since last 15 years in greed of her property. It has also been alleged that between the suspected persons and the petitioner there are more than 10 cases pending in District Courts and the High Court. It has further been submitted that besides the same, there are more than 10 Police Complaints filed before the local Police Stations, against the suspected



persons for harassment, stalking, following, annoying, abusing, and threatening the petitioner. It has been submitted that their motive is to pressurize and threaten the petitioner so that she ultimately surrenders and sells her property to the suspected persons at throw away prices.

4. The petitioner submitted that in absence of any other efficacious remedy, the present petition has been filed seeking registration of FIR under Section 302/120B/34 IPC against the suspected persons for hatching such conspiracy and murdering the petitioner's son. The petitioner stated that the local Police is well aware of the entire dispute but have not taken any action till date. It has been submitted that the investigation by CBI is necessary in the present case on account of, the complexity involved in this case. It has been submitted that the case is totally based on circumstantial evidences that need to be cracked based on the evidences related to telephonic CDR, Whatsapp communication, banking transactional links, Geo Location mapping of each and every suspect etc.
5. The petitioner has alleged that her son Kartik Gandhi has been murdered under a conspiracy by the suspected persons in order to pressurize the petitioner to surrender her property to Ashwani Malik and Subhashani Malik. The petitioner has given a list of 22 suspected persons in the writ petition. The petitioner has alleged that on 27.12.2023, the petitioner's son went to Leh, Ladakh with one of the suspects Aditya Singh. On 01.01.2024, the petitioner received a whatsapp call from an unknown person namely Aditya Singh who informed that her son Kartik Gandhi has met with an accident. The petitioner was asked to reach Ladakh immediately; however, the



Petitioner could not go as she was alone and suffering from high fever. It is alleged that Aditya Singh also sent some pictures of Kartik Gandhi to the petitioner but the petitioner failed to recognize her son. Aditya Singh informed that he also accompanied Kartik Gandhi to Leh, however, the same was suspected by the petitioner as Aditya Singh did not suffer even a single injury out of such a major accident.

6. The petitioner believed it to be a hoax/ threat call and did not take it seriously because she used to receive such calls on regular basis from the suspected persons. The petitioner stated that the above said suspected persons use “D-944, New Friends Colony, New Delhi” as their “Adda” for all their unlawful activities and said place is the hub and epicenter of cyber fraud, drug peddling and anti-national activities under the control of Ashwani Malik. The petitioner states that on intervening night of 02.01.2024 and 03.01.2024 at around 2:50 AM Kartik Gandhi was brought to the trauma center, AIIMS Hospital in Delhi, by one of the suspects Aditya Singh. The petitioner states that when Kartik Gandhi gained consciousness, the petitioner met him.
7. Allegedly, after gaining consciousness, Kartik Gandhi told the petitioner that *“he was trapped by Ashwani Malik and his gang, he was blackmailed and forcefully taken him to Leh, he did not want to go. In Leh there were 4-5 people including Aditya Singh. His phone was snatched and forcefully kept by Aditya Singh, so he could not inform his mother anything. He also told that, Ashwani Malik and Vinay Malik were in regular touch with Aditya Singh. Upon Malik’s instructions, Aditya Singh wanted him (Kartik Gandhi) to call his mother and tell her to dispose of his mother’s share in the property in the name of*



Maliks and Aryas which he refused to do. This is the reason when he was forced to sit inside the car and the car was then eventually pushed from the cliff into the valley by Aditya Singh and others”.

8. The petitioner states that she preferred to dial 112 from her own number (8826622932). The petitioner also informed the same to her lawyer, who suggested the Petitioner to dial 112 from the AIIMS landline number. The petitioner then informed everything to the police. The police officer reached on the spot after 1.5 hrs. and called Aditya Singh to the AIIMS check post. However, no action or inquiry was taken/conducted in furtherance against Aditya Singh or any other suspects. Mr. Kartik Gandhi succumbed to the injuries on 15.01.2024. The petitioner states that she is very much convinced with the foul play and larger conspiracy behind the death of her son and her apprehension got aggravated when she saw the staff and other associates of Malik's roaming in the hospital and following her as they used to do in courts. The petitioner has alleged that her son Kartik Gandhi was cold bloodedly murdered and designed by the suspected persons to make it look like a case of accident.
9. The petitioner submitted that she is a co-owner (50%) of the 2nd floor at C-63, Friends Colony (East), New Delhi along with entire roof rights up to the highest level. Sh. Kartik Gandhi was also a co-owner (50%) of the said property; by virtue of will dated 12.07.2005 of his father Late Sh. Sushil Kumar Gandhi. The First floor and the Ground floor were purchased by the Maliks in the year 1996 and 2009 respectively.
10. The petitioner alleged that since that day, Vinay Malik, Ashwani Malik, Subhashani Malik, and Bimal Arya were eying on petitioner's



property and they started picking up fights on day to day basis with the petitioner and her husband. The petitioner stated that she came to know about the fact that they are a group of people who belong to criminal background and are involved in the land grabbing in collaboration with other suspected persons.

11. The petitioner has given details of around 10 litigations in the petition which are pending before the High Court and District Courts. The petitioner alleged that she had filed suits, FIRs and criminal cases against the said Maliks and Aryas for the property and in view to harass the petitioner they have also filed false and frivolous cases against the petitioner. The petitioner has given details of such cases in the petition. The petitioner stated that she has filed several complaints with the police. However, no action has been taken.
12. The petitioner alleged that the suspects even tried to lure the control of petitioner's son's life and administered him drugs and alcohol and trapped him by befriending him with several girls. In the same line of conspiracy a girl namely Akshita Sekhri was planted who later on lodged an FIR No. 261/2021, PS Hauz Khas, u/s 354D (2)/354A/506 of IPC and FIR No. 2/2021 u/s 354D/509 of IPC. The petitioner alleged that Kartik Gandhi was falsely implicated and remained in judicial custody for around 03 months. The petitioner states that she was informed by her deceased son that the suspects forcefully got some blank papers signed from him.
13. The petitioner alleged that her son was controlled by the suspected persons to detach her from the petitioner. It has also been alleged that the petitioner was put on surveillance. The petitioner stated that after



the death of her son the petitioner visited the deceased's residence-cum-studio at A-84, Prakash Mohalla, East of Kailash, New Delhi to collect her son's belongings and found several cheque books of several banks under the name of Kartik Gandhi and also several Life Insurances were found to have been made in the name of Kartik Gandhi in which Akshita Sekhri (one of the suspects) was a nominee. The petitioner states that she has lost faith on the local police and submits that the investigation be conducted by the CBI.

B. STATUS REPORT OF DELHI POLICE

14. Inspector Rajendra Kumar Jain, Station House Officer, PS New Friends Colony filed a status report wherein it was *inter alia* stated as under:

“2. That an enquiry into the matter was conducted and statement of one of the alleged namely Aditya Singh who accompanied the petitioner's son to Leh, was also recorded. During enquiry it revealed that petitioner's son had gone to Leh, Ladakh on 27/12/23 alongwith one of the alleged persons namely Aditya Singh for photo shoot by his Eco Sport Car. On 01/01/24 they left for Pangong Lake by the car at about 10 am and the car was being driven by deceased Kartik. When they were enroute to Pangong Lake their car slipped in a ditch near Khardungla Pass on 01/01/24 at about 1 PM. They both were rescued by Army and admitted in SNM Hospital, Leh. On 02/01/24 Kartik Gandhi (Petitioners' Son) was referred to Delhi by hospital authority and they both were airlifted to Chandigarh and then by road they reached Delhi in an ambulance. Kartik Gandhi was admitted in AIIMS Hospital where he succumbed to his injuries on 15/01/24. His post-mortem vide PM No. 34/24, dt 15/01/24 was conducted at AIIMS Mortuary and PM report was obtained by SI Ishey Tsering, PS Nubra, Leh, UT Ladakh. During enquiry SI Ishey Tsering, PS Nubra was contacted over phone who told that there is already an FIR registered in this matter and he



provided the name of the IO i.e. Inspr Sultan Wazir, PS Nubra. Thereafter Inspr. Sultan Wazir was contacted on his given mobile number who told that a case vide FIR No. 01/24, dt 01/01/24, U/s 279/337 IPC was registered in PS Nubra, Leh regarding the accident of the deceased Kartik Gandhi and later on section 338/304A IPC were also added in the case in view of death of Kartik Gandhi. The copy of FIR No. 01/24, PS Nubra was obtained from the IO of the case and the same is enclosed herewith as annexure 'A'.

3. That the investigation of the case FIR No. 01/24, U/s 279/337/338/304A IPC, PS Nubra, Leh is being conducted by Nubra Police Station in Leh, Ladakh.

4. That there are many cases pending before the various Courts of Delhi between the petitioner and the alleged persons regarding property & other local disputes. Both the parties used to file cases and complaints against each other. In this regard preventive action u/s 107/150 Cr.PC has been initiated and Kalandra u/s 107/150 Cr.PC is being forwarded to SEM Court for disposal. However, complaints lodged by the petitioner in PS New Friends Colony regarding allegations of murder of her son, was transferred to SSP/Leh through proper channel for further necessary action into the matter.”

15. Inspector Rajendra Kumar Jain, Station House Officer, PS New Friends Colony also filed second status report dated 21.05.2024 wherein it was *inter alia* stated as under:

“1. That in continuation to the pervious status report submitted before the Hon'ble Court it is further submitted that the petitioner has lodged many complaints against Ashwini Kumar Malik, Smt. Subhashini Malik, Vinay Malik and Sh. Bimal Arya & Ors. on 07/01/21, 13/03/23, 26/07/23, 27/07/23, 18/11/23 and 01/12/23 regarding allegations of misguiding late son Mr. Kartik Gandhi, threatening through domestic helps, regarding illegal acts and nuisance, illegal installation of CCTV camera in premises of C-63, New



Friends Colony and stalking. On the other hands Ashwini Malik and his wife Smt. Subhashini Malik have also lodged many complaints against the petitioner on 28/11/2020, 28/11/23 and 01/12/23, regarding allegations of trespass, and putting lock on the property jointly owned by the petitioner and the Ashwini Malik & his wife, stalking and illegal construction in property bearing no. C-63, New Friends Colony, Delhi. All these complaints were assigned to various Eos for necessary action and after enquires the complaints were filed as allegations could not be substantiated during enquiry and the allegations were emanating due to property dispute between both the parties. However, later on in view of complaints lodged by both the parties, preventive action u/s 150 Cr.PC has been taken against both the parties vide DD No. 86A, dated 14/03/24.

2. That the Petitioner and Sh. Ashwini Malik & his wife Subhashini Malik are joint owners of the property bearing no. C-63, New Friends Colony, Delhi and there is a dispute between them regarding ownership of various portions of the said property. There are many cross litigations/cases pending in Hon'ble High Court of Delhi and Saket District Court. Both the parties used to lodge frequent complaints against each other since 2009.

3. That a case FIR No. 261/21, U/s 354A/354D(2)/506 IPC, PS Hauz Khas was registered against the petitioner's son Lt. Sh. Kartik Gandhi and he was in Judicial custody since 09/08/2021 to 09/11/2021 and was released on bail on 09/11/21."

(C) STATUS REPORT OF CBI

16. Respondent No.1/CBI also filed the reply and *inter alia* stated that the matter does not involve interstate or international ramifications and can be easily investigated by the State Police in a proper manner. It was further stated that CBI has limited manpower and resources and is already overburdened, *inter alia*, with the investigation of cases



entrusted to it by this Hon'ble Court & other Hon'ble High Courts and the Hon'ble Supreme Court of India, as well as investigation of sensitive cases accepted on the request of respective State Governments.

(D) SUBMISSIONS OF LEARNED SENIOR COUNSEL FOR PETITIONER

17. Mr. P.K. Dey, learned senior counsel for the petitioner submitted that pursuant to the deep-rooted conspiracy, Aditya Singh and other suspected persons took the deceased Kartik Gandhi to Leh where he and his car were pushed in a deep pit. He was brought to AIIMS Delhi where both his legs were amputated and he succumbed to his injuries on 15.01.24. The object of the conspiracy germinated in Delhi and its object was achieved in Delhi, and therefore, this Court has jurisdiction to decide the matter. Reliance has been placed upon *Sunita Kumari Kashyap V. State Of Bihar* (2011) 11 SCC 301 para 8 and *Lee Kun Hee, President, Samsung Corporation, South Korea and Ors. V. State of Uttar Pradesh and Ors.* (2012) 3 SCC 132.
18. Learned senior counsel further submitted that the conspiracy is a continuing offence. Reliance has been placed upon *Yakub Abdul Razak Memon V. State Of Maharashtra* (2013) 13 SCC 1. Learned senior counsel submitted that this Court has the jurisdiction to examine the entire case and do justice to the petitioner. It has also been submitted that this Court can also summon the report of the local police's investigation, if any and Aditya Singh's Injury Report to substantiate the case of the petitioner. Reliance has also been placed upon *Navinchandra N. Majithia v. State of Maharashtra* (2000) 7



SCC 640.

19. Learned senior counsel submitted that one Ms. Akshita Sekhri, who was close to the suspected persons and her involvement, is also established. Initially, she was made to befriend the deceased and after the deceased objected, 2 FIRs were registered against the deceased, and he remained in custody for 3 months and the cases were hotly contested. In spite of this, the deceased made Akshita the nominee in 3 insurance which raises grave suspicion. Surprisingly, in two Policies, she was shown as his sister and in one, as his wife. One policy was made in West Bengal and the other in Rajasthan. Apart from this, Akshita was also made the nominee in 14 bank accounts. She is also the nominee in debit cards made from one of these accounts where there was Personal Accident Insurance of Rs. 25 lakhs. She was made the nominee in the short span before the deceased's death. After the death of the deceased, where the money went needs to be thoroughly investigated as the policies were taken from West Bengal and Rajasthan. The deceased was taken from Delhi to Leh crossing several states and UTs. The details of their stay during the long journey also needs to be investigated. The CBI is competent to investigate from different states and the local police will be lacking in that regard.
20. Learned senior counsel further submitted that the petitioner sought the CBI's investigation to unearth the deep-rooted conspiracy. Learned senior counsel submitted that the deceased was taken from Delhi to Leh crossing 5-6 states and UTs and the local police cannot do its duty as per the procedure, which establishes that the police from an outside jurisdiction has to report to the local police, enter in the Daily Diary



of the local police and seek assistance. This embargo is not applicable to the CBI which can do its duty without the assistance of the local police in view of Section 5(4) of the DSPE Act, 1946.

21. Learned senior counsel further submitted that the call details, geo-location and the link between Aditya Singh and other suspected persons needs to be investigated as to who all were in touch among themselves to give the final shape to the murder. The CBI is competent and has well established labs for brain mapping, narco test, polygraph test etc. in which the local police is lacking and it may not be available to the state police to unearth the deep-rooted conspiracy. The case also requires forensic audit of various bank accounts and transactions apart from other digital evidences such as the multiple call record details, location details, emails, geo-locations and other digital correspondences to unearth the conspiracy.
22. Learned senior counsel submitted that the motive for the crime is well established as there are several criminal and civil cases pending since 2009 in the district courts and this court between the petitioner and suspected persons. It has been submitted that the purpose of the conspiracy was two-fold; firstly, to break the petitioner physically and mentally so that she may sell her property to the suspected persons at throwaway prices and secondly, the financial fraud which includes several bank accounts, insurance policies, debit and credit cards and the honey trap of the son of the petitioner after the death.
23. Learned senior counsel submitted that the deceased Kartik Gandhi disclosed the true facts to the petitioner on 03.01.2024 and immediately, the petitioner made multiple calls to the police. Learned



senior counsel submitted that no police officials visited, while the deceased was in a conscious state and his statement was not recorded. Learned counsel submitted that Kartik Gandhi succumbed to the injuries on 15.01.2024 and the petitioner remained under shock for some time and therefore on 14.02.2024, the petitioner made a complaint to the CBI. Learned counsel submitted that that the statement made by the deceased to the petitioner is a dying declaration and probative value of the same can be ascertained only during the trial.

24. Learned counsel submits that the delay in the present case cannot be attributed to the petitioner. It has been submitted that the insurance policies were made from West Bengal and Rajasthan and 14 bank accounts were opened in Delhi. Learned senior counsel submitted that there would be no purpose of filing the complaint before the learned MM as learned MM has no power to direct the CBI to investigate the matter.

(E) FINDINGS AND ANALYSIS

25. The petitioner has invoked the jurisdiction of this court under Article 226 of Constitution of India. Perusal of Article 226 confers jurisdiction on the High Court to issue writ for the enforcement of any of the rights conferred by Part-III of the Constitution of India and to exercise power of judicial review to correct administrative decisions. The jurisdiction under Article 226 can be exercised to prevent the cases of abuse of power and neglect of duty by public authorities. The court while exercising the jurisdiction under Article 226 is expected to give to the parties, complete and substantial justice keeping in mind the principles of equity to promote honesty and fair play.



26. The petitioner in the present case has alleged that the death of her son Kartik Gandhi at Leh is a result of pre-planned conspiracy being hatched in Delhi and has its wings in various states and therefore the matter is required to be investigated by the CBI. There is no doubt to the proposition that the Constitutional Court has the power to direct the investigation by the CBI. It is relevant to note that the fair investigation is also a part of the Constitutional right guaranteed under Article 20 and 21 of the Constitution of India. The law requires that the investigation must be fair, transparent and judicious.
27. During the course of investigation, the voice of the victim or the next of kin of the victim has to be heard. It is also necessary that the confidence of the victim or the kin of the victim must be restored. It is no longer *res integra* that the Court can direct investigation or transfer investigation to an alternative agency. However, such orders are not matter of routine and are to be made considering the nature of allegations and with an aim to obtain justice. The Court can always direct investigation or transfer of investigation if it is satisfied on the basis of the available material that such a course will promote the cause of justice in a given case. If the direction of investigation by a particular agency brings complete justice, the Court may not hesitate in passing such an order.
28. In ***Central Bureau of Investigation vs. State of Rajasthan and Another*** (2001) 3 SCC 333, the Apex Court *inter alia* held that High Court under Article 226 of the Constitution of India can invoke its jurisdiction though sparingly for giving direction to CBI to investigate in certain cases.



29. In *State of West Bengal And Others vs. Committee for Protection of Democratic Rights, West Bengal And Others* (2010) 3 SCC 571, the Apex Court *inter alia* held that the High Court in exercise of its jurisdiction under Article 226 of the Constitution of India direct the CBI to investigate the cognizable offence without the consent of the state. However, the Apex Court emphasized that while passing such an order, the Court must bear in mind certain self-imposed limitations for the exercise of these constitutional powers. It was further *inter alia* held that the very plenitude of the power under the said article requires great caution in its exercise. Further, the Apex Court *inter alia* held as under:-

“70.....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 leveled 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 instill 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.”

30. If the facts of the present case are checked on the touch stone of the rule of caution laid by the Hon’ble Supreme Court in *State of West*



Bengal And Others (*supra*) this Court is of the considered view that the present case is not fit for making the reference to the CBI. The petitioner has alleged that the death of her son Kartik Gandhi is the result of a pre-planned conspiracy of certain suspected persons. The reason given is that the local police will not be able to do proper scientific investigation and investigation in other states where the facets of conspiracy exist. This Court finds it difficult to agree with this proposition of the complainant. The Delhi Police cannot be branded incapable of conducting the investigation in the present case. Delhi Police has conducted investigation in numerous serious and sensitive cases of national importance which had its facets not only within the country but in the foreign countries also. Thus, the request of the petitioner to direct the registration of FIR by the CBI merely on this ground cannot be accepted. However, in order to do complete justice, it is necessary that the allegations of the complainant should be thoroughly investigated.

31. The Constitutional Courts while exercising its power under Article 226 can always mould the prayer. It is a matter of record that in respect of the accident in which unfortunately, the son of the petitioner lost his life, a case FIR No. 01/2024 dated 01.01.2024 under Section 279/337 IPC was registered at PS Nubra, Leh. The status report filed by Inspector Rajendra Kumar Jain, Station House Officer, PS New Friends Colony indicates that the investigation in this case is still continuing. The question is whether the investigation of this case can be transferred to Delhi for further investigation in view of the fact that the complainant alleged that the conspiracy was hatched in Delhi.



32. In *Navinchandra N. Majithia (Supra)*, a petition was filed before the High Court of Bombay *inter alia* praying to quash the complaint lodged by the respondent in Shillong or in alternative to issue a writ of *mandamus* to direct the State of Meghalaya to transfer the investigation being conducted by the officers of CID at Shillong to the Economic Offence Wing, General Branch of CID at Mumbai or any other investigating agency of the Mumbai Police. This order was challenged before the Apex Court. The Apex Court while answering this discussed in detail the jurisdictional aspect of the High Court in view of Article 226(2) and *inter alia* held as under:

“From the provision in clause (2) of Article 226 it is clear that the maintainability or otherwise of the writ petition in the High Court depends on whether the cause of action for filing the same arose, wholly or in part, within the territorial jurisdiction of that Court.

In legal parlance the expression "cause of action" is generally understood to mean a situation or state of facts that entitles a party to maintain an action in a court or a tribunal; a group of operative facts giving rise to one or more bases for suing; a factual situation that entitles one person to obtain a remedy in court from another person.

So far as the question of territorial jurisdiction with reference to a criminal offence is concerned the main factor to be considered is the place where the alleged offence was committed.

The judgment of the High Court under challenge is unsustainable. The High Court failed to consider all the relevant facts necessary to arrive at a proper decision on the question of maintainability of the writ petition, on the ground of lack of territorial jurisdiction. The Court based its decision on the sole consideration that the complainant



had filed the complaint at Shillong in the State of Meghalaya and the petitioner had prayed for quashing the said complaint. The High Court did not also consider the alternative prayer made in the writ petition that a writ of mandamus be issued to the State of Meghalaya to transfer the investigation to Mumbai Police. The High Court also did not take note of the averments in the writ petition that filing of the complaint at Shillong was a mala fide move on the part of the complainant to harass and pressurise the petitioners to reverse the transaction for transfer of shares. The relief sought in the writ petition may be one of the relevant criteria for consideration of the question but cannot be the sole consideration in the matter. On the averments made in the writ petition it cannot be said that no part of the cause of action for filing the writ petition arose within the territorial jurisdiction of the Bombay High Court.

In the peculiar fact-situation of the case, setting aside the impugned judgment and remitting the case to the High Court for fresh disposal will cause further delay in investigation of the matter and may create other complications. Instead, it will be apt and proper to direct that further investigation relating to complaint filed by JBHL should be made by Mumbai Police.”

33. The bare perusal of the above said observations makes it clear that the Apex Court in the facts and circumstances transferred the investigation from Shillong to Mumbai and avoided remitting the case to the High Court so as to avoid further delay. This Court considers that in view of the observation of the Apex Court in **Navinchandra N. Majithia (Supra)**, this Court has jurisdiction to transfer the investigation of case FIR No. 01/2024 dated 01.01.2024 under Section 279/337 IPC registered at PS Nubra, Leh to Delhi.
34. Hence, in view of the discussion made herein above, FIR No. 01/2024



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dated 01.01.2024 under Section 279/337 IPC registered at PS Nubra, Leh is transferred for further investigation to Delhi. The Commissioner of Police is requested to assign this case for further investigation / re-investigation to Crime Branch, Delhi. The Crime Branch may take up the investigation de-novo and shall take into account the allegations of the complainant regarding the conspiracy and shall proceed in accordance with law. The police shall be at liberty to add any other provisions of the law, if the same has been made out on the basis of the investigation conducted. With these observations, the petition along with pending applications, if any, stands disposed of.

DINESH KUMAR SHARMA, J

SEPTEMBER 26, 2024/AR/KR..