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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved On: 20th February, 2024

Pronounced On: 04th April, 2024

+ W.P.(CRL) 769/2018 & CRL.M.A. 4826/2018

KRISHNA

..... Petitioner

Through: Mr. Manoj V. George, Mr. Chahat Khanna, Ms. Akshita Aggarwal, Mr. Rizwan A. Durrani & Ms. Shilpa Liza, Advs.

versus

DELHI POLICE & ORS

..... Respondents

Through: Mr. Yasir Rauf Ansari, ASC (Crl.) for the State with Mr. Alok Sharma & Mr. Vasu Agarwal, Advs. for State.
Mr. Anil Soni, CGSC with Mr. Devurat Yadav, Adv. for UOI.
Insp. Arun Sindhu alongwith main IO Mr. Vinay Tyagi (Retd.) Crime Branch.
Mr. Ripu Daman Bhardwaj, SPP with Mr. Kushagra Kumar & Ms. K. Manaswini, for CBI

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT

AMIT SHARMA, J.



1. The present petition under Article 226 of the Constitution of India read with Section 482 of the Cr.P.C. seeks the following prayers:

- “a. pass an appropriate writ order direction to re investigate the case in F.I.R. No. 352/2017 P.S. Mansarovar Park, Shahdara Delhi by C.B.I, or any other independent agency or
- b. pass any other order which this Hon’ble Court deems fit in the facts and circumstances of the present case in the interest of justice.”

2. Learned counsel appearing on behalf of the petitioner submits that the latter belongs to the SC community. It is submitted that the husband of the petitioner was working as a security guard at the apartment/compound of Jindal Oil Mill, 1/561, Main Gt. Road, Shahdara, Delhi. It is submitted that in the intervening night of 6-7.10.2017, the husband of the petitioner and four other ladies residing in the apartment were found murdered in a gruesome manner inside the house premises. It is submitted that thereafter the present FIR bearing No. 352/2017 dated 07.10.2017 at P.S. Mansarovar Park, under Section 302 of the IPC was registered against unknown persons on the complaint of Sh. C.B. Singh, SHO/Inspector, P.S. Mansarovar Park. It is submitted that for being a high profile murder in the National Capital of the country, it got wide coverage in print and electronic media. It is submitted that due to high coverage in the media, the Delhi police were under immense pressure to break the case. It is further submitted that police thereafter, due to immense pressure by public and the media coverage, hastily cooked up a story and falsely implicated the son (Anuj), son-in-law (Vikas) and other relatives of the petitioner in the aforesaid FIR. The son and son in law of the petitioner along with other relatives were arrested by the Crime Branch, Delhi Police on 6.12.2017.



3. Learned counsel for the petitioner submits that the latter has sent various representations to the Ministry of Home Affairs requesting the authorities to transfer the case from Crime Branch, Delhi Police to CBI for an impartial and fair investigation; however, no steps were taken and therefore, the present petition was filed.

4. Learned counsel for the petitioner submits that the aforesaid prayer in the writ petition is sought on the following grounds:

- a) There was no proceeding conducted by the police under Section 174 of the Cr.P.C.
- b) As per the initial PCR call, only one person was found dead.
- c) There was an inordinate delay of 07 hours in registering the FIR.
- d) It was argued on behalf of the petitioner that jewellery was found at the body of the deceased; therefore, robbery could not have been a motive of the gruesome crime. It is further stated that after two days, during the search conducted on the premises, aluminum almirahs were found locked and jewellery was recovered.
- e) It is further stated that no witnesses of the locality were examined.
- f) It was also stated that there was a property dispute between the family members and the said angle was never examined by the prosecuting agency.
- g) Finally, it is submitted that it is unbelievable that the son and son-in-law would kill their father and father-in-law respectively.
- h) It is submitted that in view of the aforesaid facts, the investigation should be handed over to the CBI for re-investigation to bring the real culprits to justice.



5. Reliance was placed on the below-mentioned paragraphs of the following judgments:

i) State of Gujarat v. Kishanbhai (2014) 5 SCC 108

“19.He may be truly innocent, or he may have succeeded because of the lapses committed by the investigating/prosecuting teams. If he has escaped, despite being guilty, the investigating and the prosecution agencies must be deemed to have seriously messed it all up. And if the accused was wrongfully prosecuted, his suffering is unfathomable. Here also, the investigating and prosecuting agencies are blameworthy.”

ii) Vinay Tyagi v. Irshad Ali (2013) 5 SCC 762

“48. What ultimately is the aim or significance of the expression "fair and proper investigation" in criminal jurisprudence? It has a twin purpose: Firstly, the investigation must be unbiased, honest, just and in accordance with law; secondly, the entire emphasis on a fair investigation has to be to bring out the truth of the case before the court of competent jurisdiction. "That the right trial includes 'fair investigation', 'fair trial', and 'fair investigation' are pre-requisites to get justice which the parties deserve as per law, and one without the other cannot yield to fair justice.”

iii) Pooja Pal v. Union of India (2016) 3 SCC 135

“86. It is judicially acknowledged that fair trial includes fair investigation as envisaged by Articles 20 and 21 of the Constitution of India. Though well-demarcated contours of crime detection and adjudication do exist, if the investigation is neither effective nor purposeful nor objective nor fair, it would be the solemn obligation of the courts, if considered necessary, to order further investigation or reinvestigation as the case may be, to discover the truth so as to prevent miscarriage of the justice.”

iv) Dharam Pal v. State of Haryana & Ors (2016) 4 SCC 160

“25. It is the bounden duty of a Court of law to uphold the truth and truth means absence of deceit, absence of fraud and in a criminal



investigation a real and fair investigation, not an investigation that reveals itself as a sham one.”

v) Bhabu Bhai v. State of Gujarat (2010) 12 SCC 254

“32. The investigation into a criminal offence must be free from objectionable features or infirmities which may legitimately lead to a grievance on the part of the accused that investigation was unfair and carried out with an ulterior motive. It is also the duty of the investigating officer to conduct the investigation avoiding any kind of mischief and harassment to any of the accused. The investigating officer should be fair and conscious so as to rule out any possibility of fabrication of evidence and his impartial conduct must dispel any suspicion as to its genuineness. The investigating officer "is not merely to bolster up a prosecution case with such evidence as may enable the court to record a conviction but to bring out the real unvarnished truth".”

6. Initial status report dated 02.05.2018, authored by Sh. Rajesh Kumar, Assistant Commissioner of Police, STARS-(ER), Crime Branch Delhi, records as under:

“(1) Brief facts of the case are that on 07/10/17, an information was received at Police Station Mansarovar Park, Delhi vide DD No. 14B, regarding murder. The DD No.14B was received at 7.25 AM with regard to murder of gatekeeper, and reported through phone number 8076293779, belonging to Yogesh Jindal. The statement of Rakesh Jindal, who first saw the body and then called other members of the Jindal family, including Yogesh Jindal, had been taken on 05.01.18. On this, police reached the spot at 1/561, Main GT Road, Shahdara, Delhi where one dead” body of male person Gatekeeper (Rakesh S/o Sh. Chandi R/o H No. 519, Behta Hazipur, Loni, Ghaziabad, UP age about 50 years) was found on ground floor near parking, identified by Rakesh Jindal. On entering the house, four female dead bodies (1) Anjali Jindal, D/o Late Sh. Ram Kishan, R/o 1/561, Main GT Road, Shahdara, Delhi, aged 38 years (2) Sangeeta Jindal, D/o Late Sh. Ram Kishan, R/o 1/561, Main GT Road, Shahdara, Delhi, aged 55 years (3) Nupur Jindal, D/o Late Sh. Ram Kishan, R/o 1/561, Main GT Road, Shahdara, Delhi, aged



48 years and (4) Urmila Jindal, W/o Late Sh. Ram Kishan, R/o 1/561, Main GT Road, Shahdara, Delhi, aged 79-years were also found in a room of First floor of the above address. Many cut/stab and slit wounds were present near the neck of all deceased persons. The room was disturbed and almirah was opened by breaking locks. In this regard, a case vide FIR No. 352/17, U/s 302/34 IPG was registered at Police Station M S Park, Delhi.

(4) One Scissors and one knife were seized from the spot and the sketches of the same were prepared. One edible sweet Laddu was also seized from the spot.

(11) Thereafter, on 09.10.2017, the house search of the deceased family was conducted by the IO/Inspector C.B.Singh, where two Almirahs were found locked and one of them was in the bedroom and the same was opened in the presence of Smt. Abha Aggarwal, the daughter of the deceased Urmila Jindal. The following items of Gold and Silver Jewellery articles, were recovered. The details of the recovered articles are as given below:-

1. Teeka,
2. Blue Meena Set,
3. Stone Pearl Set,
4. Kundan Pendent,
5. Green Jadon Set

(12) The second Almirah which was kept in another room and the same was opened in the presence of Smt. Abha Aggarwal, the daughter of the deceased Urmila Jindal. The following items of Gold and Silver Jewellery articles were recovered. The details of the recovered articles are as given below:-

1. दो कैड गोल्डर कलर
2. दो कड़े मोती के
3. एक White Metal Ship
4. एक White Metal Plate
5. 4 पानदान चाँदी रंग) Golden Polish)
6. 1 गिलास चाँदी रंग
7. 1 white metal कटोरदान
8. 3 Bowl Silver Color



9.1 थाली चोटी

10. एक फोटो लक्ष्मी गणेश Silver color

11. 7 coins Silver Color

12. 4 Golden Color Ear Chain

13.1 चाँदी की पाजेब

(13) Further, a search of the house was also carried out and Rs 18,784/- were also recovered from the shelf of wall of bedroom. All the jewellery articles and cash, as above mentioned, were handed over to Smt. Abha Aggarwal after making the handing over memo.

(14) Subsequently, the investigation of the case was transferred to Crime Branch on 06.12.2017 from PS Mansarovar Park and further investigation was entrusted to Inspector Vinay Tyagi as the incident in case was gruesome and highly sensational, clueless dacoity-cum-murder of five persons. Since the incident, the team of Crime Branch was already working on this case and secret sources were deployed to collect information about accused persons. All possible & available sources to nab the accused person have been used & exhausted.

(15) During investigation and after going through the injuries inflicted upon the deceased persons and also from the Post Mortem report, it was revealed that the persons that inflicted injuries on the deceased are aware about the vital organs of the human being, which can cause death instantaneously. While trying to work on this input, it came to notice that the son-in-law of the deceased guard Rakesh was working in GTB hospital as a sweeper. He has worked in various departments of G.T.B Hospital and has knowledge about the vital organs of the human being. Thereafter, close and continuous watch on the movements of Vikas was kept and all the persons in touch with him were interrogated again and again.

(16) As per the investigation conducted so far and analyses of CDRs, it was revealed that the Mobile Phone No. 9911437059 of deceased Rakesh, who was the Security Guard in the premises reflected that the deceased Rakesh Kumar was continuously in the touch with one Mobile Phone No. 8750232151 and this phone number was found to be of accused Vikas, who is son-in-law of deceased Rakesh (Guard). After further analysis of CDR's of Mobile Phone No. 8750232151, after the incident of Quintuplet Murder case, its location was found in his village



Kandhera, District Bagpat in UP and on discreet enquiry, it came to notice that Vikas was found absent from his duty, who was working on contract basis in GTB Hospital, Delhi. Further analysis of mobile phone number of Vikas reveals that on 07.10.2017, he was continuously in contact with one mobile number 8800231740 and this phone number belongs to his neighbor Sunny. But, the accused Vikas Kept his position in G.T.B. Hospital and but he did not come to the place of incident despite the faith that the information received from his some relatives regarding the murder of his Father- in-Law. Moreover, he was not present at the time of Post Mortem in GTB Hospital while he was working in the same hospital. This fact aroused suspicion on accused Vikas. A close surveillance was kept on accused Vikas.

(17) On 05.12.2017, a specific and secret information was received regarding Vikas, S/o Jasbir Singh, and a raid was conducted and the prime suspect/accused Vikas was apprehended and brought in the office of Crime Branch, Shakarpur for interrogation. The accused Vikas was arrested from village Kandher, Bhagpat, UP by a team of SI Dinesh Kumar and SI Hawa Singh in the area of Loni, Ghaziabad, U.P., where he alongwith Sunny s/o Harbir Singh were apprehended. During sustained interrogation coupled with technical inputs, efforts of Crime Branch officials finally yielded results and Vikas broke down and confessed his crime for his involvement in the case and disclosed that his father-in-law Rakesh, the deceased security guard, came on the occasion of Raksha Bandhan i.e. 06.08.2017 in native Village Sanoli Nangla, PS Chaproli, Baghpat, UP, where accused Vikas along with his wife Preeti, (Daughter of guard Rakesh) came to celebrate the festival. Guard Rakesh Kumar informed Vikas (Son in Law) and Anuj (Son) that his owner Jindal Family is very rich and keeps cash and gold jewellery in their house.

(18) On 05.12.2017, One Laptop, Two Mobiles and One Tablet were seized by IO /Inspector C. B. Singh of PS M S Park, Delhi in the case for the investigation purpose from the scene of the crime and on the same day, the investigation of the case was transferred from Shahdara District to Crime Branch. After the receipt of the case file, the investigation was entrusted to the undersigned. I have gone through the file and inspected.

(19) On this information, the accused Vikas made a plan and hatched a conspiracy with deceased Rakesh Kumar, (Security Guard) his father in law and his other associates namely Anuj (Brother in Law), Sunny neighbour of Vikas, Vikash @ Vicky, Rahul (Both Nephew of accused Sunny), Neeraj, Deepak and Nitin (All friends of accused Anuj) to



commit dacoity at house Jindal Oil Mills i.e. 1/561, G T Road, Shahdara, Delhi. Accused Vikas disclosed that he alongwith his sala Anuj and his fatherin- law, Rakesh Kumar hatched a conspiracy to commit dacoity in the house of Jindal family. He disclosed this information to his friends namely Sunny, Vikas @ Vicky, Rahul, Nitin and some relatives Anuj, Neeraj and Deepak and made a plan to commit dacoity. As per the planning, the accused Vikas involved some of their friends/neighbor namely Sunny and his two relatives/Bhanje namely Vikas @Vicky and Rahul (Sister's sons) and his friend Nitin. The accused Anuj also involved his two friends namely Neeraj and Deepak.

(20) Vikas disclosed in his disclosure statement that in execution of their plan on 25.09.2016, between 05:00 to 06:00 PM, the accused Vikas along with the co- accused Sunny and Anuj came to Mansarovar Park and met his father-in-law Rakesh (Guard) there and conducted reccee of the house and the area. Thereafter, all the members assembled in Baghpat to finalize their plan. On 06.10.2017, as per their plan, the accused persons namely Vikas, Anuj, Sunny, Vikas @ Vicky, Rahul, . Nitin, Neeraj and Deepak assembled in Loni at 5:00 PM. All the accused persons were having mobile phones with them, which they switched off their phones as Anuj @ Bhonda had learnt this thing from one of his associates/criminal Pradeep @ Master, where they committed dacoity vide Case FIR No. 104/2017, dated 06.03.2017, U/s 394/397 IPC, PS Sector-31, Faridabad, Haryana. The involvement of the accused Anuj came to the knowledge of the investigation after his arrest and disclosure, when on 06.12.2017, the concerned IO from Faridabad contacted the investigating officer. Lateron, the accused Anuj was arrested in the Robbery case of Faridabad.

(21) Thereafter, it was disclosed that all the eight members namely (1) Vikas, (2) Sunny, (3) Anuj, (4) Vikas @ Vicky, (5) Neeraj, (6) Deepak, (7) Nitin & (8) Rahul reached near Shahdara Red Light in two auto rickshaws. From there, they went to Railway line near M S Park under Metro Station where they assembled and consumed some more liquor again which they brought with them and finally, they all reached the scene of crime at 2.30 AM, on the intervening night of 06-07/10/2017. They met Rakesh, who opened the main gate of the prenisies and gave them the smooth entry in the premises of the house of Jindal Family.

(22) It was further disclosed that, after that, all of them went to his guard room which was on the ground floor in the premises., They had prepared a plan of action and as per their plan, the accused Vikas, Anuj and Nitin were having knives in their possession and whereas the accused Sunny



was having scissors in his possession. All the four ladies were to be murdered/eliminated after committing the dacoity. In order to commit the dacoity, all of them conspired and decided to kill/murder the inmates inside the house so that they could, get away with their identity after committing the crime.

(23) Thereafter, it was disclosed that Rakesh alongwith their other six accused persons namely Vikas, Sunny, Anuj, Vikas @Vicky, Nitin and Rahul went upstairs at first floor and guard Rakesh called his owner by ringing door bell, whereas the two accused Deepak and Neeraj took their position near the main gate of the premise to give an. alarm in case of seeing any outsider. One lady name Nupur opened the gate of the stairs and Rakesh informed her that his family had come to meet him. Nupur replied ***"Why his family came so late and ashed him to make them to stay in his guard room"***. Immediately, Vikas (son-in-law) and Sunny held the deceased Nupur from behind, gagging her mouth and dragged her inside the room. Then, Vikas had slit the throat of the lady by using the knife he was possessing while sunny had grasped the hands of the lady tightly so that she would not resist and struggle for life. Thereafter, all the seven persons including Rakesh Kumar 1 entered in the house, whereas the co-accused Deepak and Neeraj remained at the gate to give an arm in case of seeing any outsider.

(24) Accused Rakesh (Guard) came out from the room after committing the murder of Nupur Jindal and took his position near main gate of the premise with accused Deepak and Neeraj to give an alarm in case of seeing any outsider. Thereafter, all the six accused persons remained inside the bedroom. In the meantime, Urmila Jindal who was sleeping on single bed woke up on hearing the noise. Immediately, the accused Nitin and Vikas over powered her by holding her hands and legs tightly . and gagging her mouth with help of cloth. Both the accused Nitin and Sunny stabbed her by their weapons and she died. Thereafter, two more ladies namely Sangeeta and Anjali Jindal, who were sleeping on double bed in the same bed room, woke up on hearing noise. Immediately, the accused Vikas @Vicky held Sangeeta by gagging her mouth. Both the accused Nitin and Sunny stabbed her on the throat and the neck by their weapons. In the mean time, Anjali Jindal was also overpowered by the accused Vikas, and Rahul by holding her legs and Vikas @Vicky have grasped the hands of the lady tightly so that she would not resist and struggle for life and the accused Anuj, Sunny and Nitin stabbed her by their knives and scissors. She immediately died on the spot.



(25) It was further disclosed that after committing the murder of all the four ladies, they broke the almirah with the help of scissor and looted cash and jewelery from the Almirah. After committing dacoity-cum-murder, all the six accused persons came downstairs. Their clothes were stained with blood. Thereafter, Anuj and Sunny overpowered Rakesh Kumar (Guard) and the accused Vikas slit the throat of his Father-in-Law while the other accused Sunny and Anuj stabbed him, as they had apprehension that he might disclose their identity.

(40) **During the course of investigation, the following recoveries were effected from the accused persons as discussed below:-**

1. **Accused Vikas**: Clothes, Shoes with blood stains and one mobile Phone were recovered at the instance of the accused Vikas, S/o Jasbir, from his house. (One knife left on the spot i.e. near the dead body of deceased Rakesh after committing the crime.
2. **Accused Sunny**: Looted Jewellery, Clothes with blood stains, one cream colour, woollen Chadar with blood stain. Shoes with blood stains and one Mobile Phone were recovered at the instance of the accused Sunny from his house. (One Scissor left on the spot after committing crime
3. **Accused Anuj**: One Knife with blood stains were recovered at the instance of the accused Anuj, S/o Rakesh from his rented house Behta Hazipur, and he burnt his clothes i.e. Pant and Shirt which worn by him on the day of the incident.

Previous Involvement of the accused Anuj @ Bhonda:

1. Case FIR No. 104/2017, dated 06.03.2017, U/s 394/397 IPC, PS Sector-31, Faridabad, Haryana.
4. **Accused Vikas @Vicky**: Looted cash amount Rs 50,000/-, at his instance from his house and he also burnt his clothes i.e. Pant and Shirt after the incident.
5. **Accused Nitin**: Looted cash amount Rs 18,000/- with blood stains. Clothes with blood stains, one Wrist watch and one mobile Phone were recovered at the instance of the accused Nitin, S/o Raj Kumar from his house.
6. **Accused Rahul**: Looted cash amount Rs 15,000/- with blood stains. Clothes with blood stains were recovered at the instance of the accused Rahul, S/o Ganesh from his house.
7. **Accused Neeraj**: Looted Cash amount 20,000/- was recovered at the instance of the accused Neeraj, S/o Om Prakash from house.
8. **Previous Involvements of the accused Neeraj:-**



1) FIR No 922/16, U/s 13 Gambling Act, PS Loni Border, District Ghaziabad, UP.

(2) FIR No. 235/17, U/s 25 Arms, PS Loni Border, Ghaziabad, UP.

9. **Accused Deepak**: He spent his booty in gambling in Hazipur Behta, Loni, Ghaziabad, UP, which he received after committing the crime.

10 **Accused Rakesh Kumar (Guard)**: He was killed by his other associates/co-accused persons after committing the dacoity

(41) Total Rs 1,03,000/- (One Lac and three thousands) have been recovered from all eight accused persons which were looted after committing the murder-cum-dacoity in Jindal Oil Mills on 06.10.2017.”

7. Thereafter, an additional status report 17.09.2018, authored by Sh. Arvind Kumar, Assistant Commissioner of Police, STARS-02(ER), Crime Branch, was placed on record with regard to the FSL results. The said FSL report recorded the following conclusion:

“The DNA generated fingerprint profiling / STR analysis performed on the source exhibits '1' (Gauze cloth piece), '2' (Blood stained Gauze cloth piece), '3' (Blood stoned Gauze cloth piiece), '4' (Blood stained Gauze cloth piece), '5'(Blanket), '6' (Bedsheet), '7' (Pillow with cover), '9' (Gauze cloth piece), '11' (Blood stained gauze cloth piece), '12' (Pillow with cover), '14' (Cloth Piece), '16' (Gauze cloth piece), '23' (Knife), '24' (Scissor), '25' (Maxi of deceased Sangeeta), '26' (Blood stained Gauze cloth piece of deceased Sangeeta), '28a' (Maxi of deceased Anjali), '28b' (Brassier of deceased Anjali), '28c' (Underwear of deceased Anjali), '29' (Blood stained Gauze cloth piece of deceased Anjali), '31a' (Maxi of deceased Nupur), '31b' (Brassier of deceased Nupur), '32' (Blood stained Gauze cloth piece of deceased Nupur), '34a' (Shirt of deceased Rakesh), '34b' (Paint of deceased Rakesh), '35' (Blood stained Gauze cloth piece of deceased Rakesh), '39a' (Maxi of deceased Urmila), '39b' (Brassier of deceased Urmila), '40' (Blood stained Gauze cloth piece of deceased Urmila), '42' (Knife), **'43a' (T-Shirt of accused Vikas), '43b' (Lower of accused Vikas), '43c' (A pair of shoes of accused Vikas), '44a' (Shirt of accused Sunny), '44b' (Shawl of accused Sunny), '44c' (A pair of shoes of accused Sunny), '45a' (Shirt of accused Rahul), '45b' (Pants of accused Rahul) provided is sufficient to conclude that:-**



1. The biological stains i.e. blood stains present on the source of exhibits '10' (Gauze cloth piece), '11' (Blood stained gauze cloth piece), '12' (Pillow with cover), '25' (Maxi of deceased Sangeeta), '43a' (T-Shirt of accused Vikas), '45a' (Shirt of accused Rahul) are from the source of exhibit '26' (Blood stained Gauze cloth piece of deceased Sangeeta).

2. The biological stains i.e. blood stains present on the source of exhibits '4' (Blood stained Gauze cloth piece), '6' (Bedsheet), '9' (Gauze cloth piece), '28a' (Maxi of deceased Anjali), '28b' (Brassier of deceased Anjali) and '28c' (Underwear of deceased Anjali) are from the source of exhibit '29' (Blood stained Gauze cloth piece of deceased Anjali).

3. The biological stains i.e. blood stains present on the source of exhibits '3' (Blood stained Gauze cloth piece), '16' (Gauze cloth piece), '23' (Knife), '31a' (Maxi of deceased Nupur) are from the source of exhibit '32' (Blood stained Gauze cloth piece of deceased Nupur).

4. The biological stains i.e. blood stains present on the source of exhibits '1' (Gauze cloth piece), '2' (Blood stained Gauze cloth piece), '34a' (Shirt of deceased Rakesh), '34b' (Paint of deceased Rakesh) are from the source of exhibit '35' (Blood stained Gauze cloth piece of deceased Rakesh).

5. The biological stains i.e. blood stains present on the source of exhibits '5' (Blanket), '7' (Pillow with cover), '14' (Cloth Piece),- '24' (Scissor), '39a' (Maxi of deceased Urmila) and '39b' (Brassier of deceased Urmila) are from the source of exhibit '40' (Blood stained Gauze cloth piece of deceased Urmila).

6. The biological stains i.e. blood stains present on the source of exhibits '42' (Knife) are from the source of exhibits '25' (Blood stained Gauze cloth piece of deceased Sangeeta), '26' (Blood stained Gauze cloth piece of deceased Sangeeta), '29' (Blood stained Gauze cloth piece of deceased Anjali), '32' (Blood stained Gauze ,cloth piece of deceased Nupur), '35' (Blood stained Gauze cloth piece of deceased Rakesh) and '40' (Blood stained Gauze cloth piece of deceased Urmila).

7. The biological stains i.e./blood stains present on the source of exhibits '43b' (Lower of accused Vikas) and '44a' (Shirt of accused Sunny) are from the source of exhibits '26' (Blood stained Gauze cloth piece of deceased Sangeeta) and '29' (Blood stained Gauze cloth piece of deceased Anjali).



8. The biological stains i.e. blood stains present on the source of exhibits '44b' (Shawl of accused Sunny) are not from the source of exhibit, '35' (Blood stained Gauze cloth 1 piece of deceased Rakesh).

ANALYSIS OF DNA PROFILING REPORT IS AS UNDER:-

1. The male DNA profile was generated from the source of exhibit No. 1(Gauze cloth piece), exhibit No. 2 (Blood stained gauze cloth piece lifted from the SOC, Exhibit No. 34a (Shirt of deceased/abettor Rakesh Kumar) and exhibit No. 34b (Pant of deceased/abettor Rakesh Kumar) and exhibit No. 35 (Blood stained Gauze cloth piece of deceased/abettor Rakesh Kumar) **is matched exhibits No "44b" (Shawl of accused Sunny).**
2. The exhibits No. 10, 11 & 12 (Blood stained gauze) lifted from SOC and exhibits No. 25 of deceased Sangeeta's clothes i.e. Maxi. The exhibit No. 26 (blood in gauze seized by the doctor during the Post Mortem of deceased Sangeeta and the DNA profiling has been generated with the exhibits No. 42 (Knife recovered at the instance of accused Anuj) 85 exhibit No. 43a (T-Shirt of accused Vikas s/o Jashbir) and Exhibit No.44a (Shirt of accused Sunny) exhibits No. 45a (shirt of accused Rahul) and exhibit No. 45b (Pant of accused Rahul) are matched.
3. The exhibit No.29 (Blood gauze in seized by the doctor during Post Mortem of deceased Anjali is matched with the exhibits No. 42 (Knife recovered at the instance of accused Anuj) & exhibits 43b (Lower of accuse Vikas S/o Jashbir and exhibits 44a (Shirt of accused Sunny).
4. The exhibit No. 32 (Blood stained gauze cloth piece of deceased Nupur seized by the doctor during the Post Mortem is matched with the exhibit No. 42 (knife recovered at the instance of accused, Anuj)
5. The exhibit No. 40(Blood gauze cloth piece of deceased Urmila seized by the doctor during the Post Mortem is matched with the exhibit No. 42 (knife recovered at the instance of accused Anuj).
6. The exhibit No 35(Blood stained gauze cloth piece of deceased/abettor Rakesh Kumar seized by the doctor during the Post Mortem is matched with the exhibit No. 42 (Knife recovered at the instance of accused Anuj).
7. The exhibits No. 24 (Scissor seized from the SOC) is matched with the exhibit No. 5(Blanket), Exhibit No. 7 (Pillow with cover) exhibit No. 14 (Cloth piece i.e Fridge Cover), exhibit No. 39a (Maxi of deceased Urmila) Exhibit No. 39b (Brassier of deceased Urmila & exhibit No.40 (Gauze cloth piece of deceased Urmila).



(4) That on 17.09.2018, the supplementary charge sheet regarding the FSL Rissult has been filed before the Ld. concerned Karkardooma Court, Delhi. The FSL reports from Physics and Chemistry Division are still awaited and after obtaining these reports will be filled before the hon'ble court through supplementary charge sheet U/s 173(8) Cr.P.C.

(5) That on 13.04.2018, the matter has committed to the Court of Session for Trial and next of hearing is on 12.10.2018.”

(emphasis supplied)

8. In compliance of the order dated 24.04.2019, a further status report authored by Sh. Arvind Kumar, Assistant Commissioner of Police, STARS-02 (ER), Crime Branch, Delhi was placed on record wherein, it is recorded as under:

“2. During investigation, all the family members of the deceased (Mrs Urmila Jindal and her daughters) were interrogated in the case. The learned trial court was pleased to frame charges U/s 302/396/395/120-B/412 IPC against all the eight accused persons including the son and son-in-law of the petitioner.

3. In continuation of the same, it is submitted that during investigation, the submission of the petitioner regarding the involvement of family members of the deceased Mrs Urmila Jindal and her daughters was investigated and was ruled but. The Call Details Records of the mobile phones of (1) Mrs Abha Aggarwal, (2) Dr. Vijay Aggarwal, (3) Sh. Mahesh Jindal, (4) Sh. Aditya Jindal and other family members of the deceased (Mrs Urmila Jindal) were obtained and analysed for their location and any contacts which may be of suspicious nature. The property, papers further revealed no motive for any murder. It is pertinent to mention that the sole heir after the death of Mrs Urmila Jindal and her daughters is her married daughter namely Mrs Abha Aggarwal, who was already a part owner and nothing, has emerged from investigation against her and her husband, Dr Vijay Aggarwal. Further, it is submitted that neither the petitioner nor any of the eight accused have till date preferred any lawful remedy consequent to framing of the charges u/s 302/396/395/120-B/412 IPC.

4. The record from the concern office of Shahdara, Sub-Register, IV (A), Nand Nagri, Delhi, was also obtained. (Copies of properties are



enclosed herewith). On the enquiry, no dispute regarding the property has come on record. Earlier, the investigation on property dispute angle was also investigated by the local police vide letter No.F.SR-IV/S. Puri/SHD.Misc.-/2017/1250, dated 09.10.2017 (Copy is enclosed herewith for kind perusal).

5. It is respectfully submitted that the entire investigation has been conducted as per law and the same has been accepted by the Learned Trial Court. The petitioner has till date beyond vague averments has not presented any fresh evidence or referred for application for further investigation U/s 173(8) Cr.P.C. by the investigation agency. The interrogation in this case stands closed on filing of the supplementary charge sheet on 18/04/2019.

5. That the evidence of three witnesses has been examined and the next date of hearing is fixed for 21.10.2019 for evidence before the Ld. Trial Court at Karkardooma, Delhi.”

(emphasis supplied)

9. Learned Additional Standing Counsel appearing on behalf of the State on the basis of the aforesaid status reports submitted that the investigation in the present FIR was conducted as per procedure and after collecting enough evidence against the accused persons, the chargesheet as pointed out hereinabove alongwith relevant evidence including the scientific evidence, have been placed on record. The investigation as reflected in the status reports has been done from every angle and there is no reason for the agency to falsely implicate the son and son-in-law of the present petitioner. It is submitted that there is no inordinate delay in registration of the FIR as the information was received in the police station on 07:25 AM and the FIR was registered at 02:00 PM, after completing the necessary formalities of bringing in the crime team at the spot. As far as non-compliance of Section 174 of the Cr.P.C. is concerned, it is submitted that the same was not mandatory in the



present case as the FIR had already been registered under the relevant provision of law, i.e., Section 302 of the IPC.

10. Heard learned counsel for the parties and perused the record.

11. The judgments relied upon by learned counsel of the petitioner had been delivered in the peculiar facts of those cases and there is no dispute with regard to the proposition of law that this Court in exercise of jurisdiction under Article 226 of the Constitution of India can order re-investigation if on the facts of a given case, previous investigation is found to be lacking in material particulars or biased, in order to save the real culprits. It is also well settled law that such power would be exercised in rare and exceptional cases where the Court finds it necessary to ensure justice between the parties and where the investigation lacks credibility. Therefore, in order to ensure fair and honest investigation the exercise of such powers would be warranted.

12. The hon'ble Supreme Court in **Himanshu Kumar and Others vs. State of Chhattisgarh and Others 2022 SCC Online SC 884** while cautioning on the routine transfer of investigation to CBI, has observed and held as under:

“46. In an appropriate case when the Court feels that the investigation by the police authorities is not in a proper direction, and in order to do complete justice in the case and if high police officials are involved in the alleged crime, the Court may be justified in such circumstances to handover the investigation to an independent agency like the CBI. By now it is well-settled that even after the filing of the charge sheet the court is empowered in an appropriate case to handover the investigation to an independent agency like the CBI.

47. The extraordinary power of the Constitutional Courts under Articles 32 and 226 respectively of the Constitution of India *qua* the issuance of directions to the CBI to conduct investigation must be exercised with great caution as underlined by this Court in the case of *Committee for Protection of Democratic Rights, West Bengal* (supra) as adverted to herein above, observing that although no inflexible guidelines can be laid down in this regard, yet it was highlighted that such an order



cannot be passed as a matter of routine or merely because the parties have levelled some allegations against the local police and can be invoked in exceptional situations where it becomes necessary to provide credibility and instill confidence in the investigation or where the incident may have national or international ramifications or where such an order may be necessary for doing complete justice and for enforcing the fundamental rights. We are conscious of the fact that though a satisfaction of want of proper, fair, impartial and effective investigation eroding its credence and reliability is the precondition for a direction for further investigation or re-investigation, submission of the charge sheet *ipso facto* or the pendency of the trial can, by no means, be a prohibitive impediment. The contextual facts and the attendant circumstances have to be singularly evaluated and analyzed to decide the needfulness of further investigation or re-investigation to unravel the truth and mete out justice to the parties. The prime concern and the endeavour of the court of law should be to secure justice on the basis of true facts which ought to be unearthed through a committed, resolved and a competent investigating agency.

48. The above principle has been reiterated in *K.V. Rajendran v. Superintendent of Police, CBCID South Zone, Chennai*, (2013) 12 SCC 480. Dr. B.S. Chauhan, J. Speaking for a three-Judge Bench of this Court held:

“13. ...This Court has time and again dealt with the issue under what circumstances the investigation can be transferred from the State investigating agency to any other independent investigating agency like CBI. It has been held that the power of transferring such investigation must be 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. ...”

49. Elaborating on this principle, this Court further observed:

“17. ... the Court could exercise its constitutional powers for transferring an investigation from the State investigating agency to any other independent investigating agency like CBI only in rare and exceptional cases. Such as where high officials of State authorities are involved, or the accusation itself is against the top officials of the investigating agency thereby allowing them to influence the investigation, and further that it is so necessary to do justice and to instill confidence in the investigation or where the investigation is *prima facie* found to be tainted/biased.”

50. The Court reiterated that an investigation may be transferred to the CBI only in “rare and exceptional cases”. One factor that courts may consider is that such transfer is “imperative” to retain “public confidence in the impartial working of the State agencies.” This observation *must* be read with the observations made by the



Constitution Bench in the case of *Committee for Protection of Democratic Rights, West Bengal* (supra), that mere allegations against the police do not constitute a sufficient basis to transfer the investigation.

51. In *Romila Thapar v. Union of India*, (2018) 10 SCC 753, one of us, A.M. Khanwilkar, J., speaking for a three-Judge Bench of this Court (Dr. D.Y. Chandrachud, J. Dissenting) noted the dictum in a line of precedents laying down the principle that the accused “does not have a say in the matter of appointment of investigating agency”. In reiterating this principle, this Court relied upon its earlier decisions in *Narmada Bai v. State of Gujarat*, (2011) 5 SCC 79, *Sanjiv Rajendra Bhatt v. Union of India*, (2016) 1 SCC 1, *E. Sivakumar v. Union of India*, (2018) 7 SCC 365, and *Divine Retreat Centre v. State of Kerala*, (2008) 3 SCC 542. This Court observed:

“30...the consistent view of this Court is that the accused cannot ask for changing the investigating agency or to do investigation in a particular manner including for court-monitored investigation.”

52. It has been held by this Court in *CBI v. Rajesh Gandhi*, 1997 Cri LJ 63, 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.

53. The principle of law that emerges from the precedents of this Court is that the power to transfer an investigation must be used “sparingly” and only “in exceptional circumstances”. In assessing the plea urged by the petitioner that the investigation must be transferred to the CBI, we are guided by the parameters laid down by this Court for the exercise of that extraordinary power.”

13. As per the Status Reports, the chargesheet and supplementary chargesheet has been filed in the present case under sections 302/396/201/412/120-B/34 IPC, and the matter is pending trial.

14. As recorded hereinabove, the prayer for re-investigation in the present FIR is primarily on the basis of non-compliance of Section 174 of the Cr.P.C. The Hon’ble Supreme Court in **Manoj Kumar Sharma and Others vs. State of Chhattisgarh and Another** (2016) 9 SCC 1 spelt out the difference between inquiry under Section 174 of the Cr.P.C and investigation under Section 154 of the Cr.P.C., by holding as under:



“Scope of “Inquiry” under Section 174 of the Code

19. The proceedings under Section 174 have a very limited scope. The object of the proceedings is merely to ascertain whether a person has died under suspicious circumstances or an unnatural death and if so what is the apparent cause of the death. The question regarding the details as to how the deceased was assaulted or who assaulted him or under what circumstances he was assaulted is foreign to the ambit and scope of the proceedings under Section 174 of the Code. Neither in practice nor in law was it necessary for the police to mention those details in the inquest report. It is, therefore, not necessary to enter all the details of the overt acts in the inquest report. The procedure under Section 174 is for the purpose of discovering the cause of death, and the evidence taken was very short. When the body cannot be found or has been buried, there can be no investigation under Section 174. This section is intended to apply to cases in which an inquest is necessary. The proceedings under this section should be kept more distinct from the proceedings taken on the complaint. Whereas the starting point of the powers of the police was changed from the power of the officer in charge of a police station to investigate into a cognizable offence without the order of a Magistrate, to the reduction of the first information regarding commission of a cognizable offence, whether received orally or in writing, into writing. As such, the objective of such placement of provisions was clear which was to ensure that the recording of the first information should be the starting point of any investigation by the police. The purpose of registering FIR is to set the machinery of criminal investigation into motion, which culminates with filing of the police report and only after registration of FIR, beginning of investigation in a case, collection of evidence during investigation and formation of the final opinion is the sequence which results in filing of a report under Section 173 of the Code. In *George v. State of Kerala* [*George v. State of Kerala*, (1998) 4 SCC 605 : 1998 SCC (Cri) 1232], it has been held that the investigating officer is not obliged to investigate, at the stage of inquest, or to ascertain as to who were the assailants. A similar view has been taken in *Suresh Rai v. State of Bihar* [*Suresh Rai v. State of Bihar*, (2000) 4 SCC 84 : 2000 SCC (Cri) 764].

20. In this view of the matter, Sections 174 and 175 of the Code afford a complete Code in itself for the purpose of “inquiries” in cases of accidental or suspicious deaths and are entirely distinct from the “investigation” under Section 157 of the Code wherein if an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered to investigate, he shall proceed in person to the spot to investigate the facts and circumstances of the case. In the case on hand, an inquiry under Section 174 of the Code was convened initially in order to ascertain whether the death is natural or unnatural. The



learned Senior Counsel for the appellants claims that the earlier information regarding unnatural death amounted to FIR under Section 154 of the Code which was investigated by the police and thereafter the case was closed.”

(emphasis supplied)

15. In the present case, as pointed out hereinabove, on the basis of a PCR call, the Officer of the concerned police Station reached the spot and on finding 5 dead bodies with visible external injuries as well as weapon of offence at the spot, proceeded to register the FIR under the provisions of Section 154 of the Cr.P.C. The inquiry contemplated under Section 174 of the Cr.P.C. is with respect to a situation where there is a possible suspicion of a homicidal death and the necessary inquiry would also include a primary autopsy report. In the present case, it is clearly stated that the FIR was registered under Section 302 of the IPC and in these circumstances there was no requirement of an inquiry under Section 174 of the Cr.P.C. Assuming for the sake of the arguments that the inquiry under Section 174 of the Cr.P.C. was required, even then the same cannot be a ground for re-investigation.

16. Furthermore, as per the initial Status Report dated 02.05.2018, a total amount of Rs. 1,03,000/- is recovered from all the eight accused persons. It is further recorded that DD No. 14B, was received at 7.25 AM with regard to murder of the gatekeeper, and reported through the phone number 8076293779, belonging to Yogesh Jindal. On this, police reached the spot at 1/561, Main GT Road, Shahdara, Delhi where one dead body of male person Gatekeeper (Rakesh S/o Sh. Chandi R/o H No. 519, Behta Hazipur, Loni, Ghaziabad, UP age about 50 years) was found on ground floor near parking, identified by Rakesh Jindal. On entering the house, four female dead bodies were found in a room of first floor of the above address. The statement of



Rakesh Jindal, who first saw the body and then called the other members of the Jindal family, including Yogesh Jindal, had been taken on 05.01.18. This explains the PCR call regarding one dead body. Furthermore, Learned Additional Standing Counsel submitted that there were no eye-witnesses from the locality and the CCTV footages on examination, did not reveal anything. Additionally, the learned Additional Standing Counsel on instructions of IO submitted that there was no inordinate delay in registering the FIR as the information was received in the police station on 7:25 AM on 07.10.2017 and the FIR was registered at 2:00 PM on the very same day, after completing the necessary formalities of bringing in the crime team at the spot. Further, as per the additional status report, the angle of property dispute amongst the family members was investigated and on analysing the property papers and other evidences on record, the same was not substantiated. Besides, as pointed out hereinabove, scientific evidence by way of DNA profiling has been placed on record before the Learned Trial Court and it clearly implicates the son and son-in-law of the petitioner in the crime.

17. This Court is of the opinion that the matter has been investigated from every possible angle. Needless to state that, enough evidence has been brought on record against the accused persons including the DNA profiling. The said reports are before the learned Trial Court for its proper determination. The petitioner has not been able to point out any lacunae for this Court to form an opinion that the investigation resulting in filing of the chargesheet lacks credibility or has been biased in any manner.

18. In totality of the facts and circumstances, the present petition is dismissed and disposed of accordingly.



19. Pending application(s), if any, also stand disposed of.

AMIT SHARMA
JUDGE

APRIL 04, 2024/bsr/sn