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

+ **W.P.(CRL) 899/2023**

BACHAN PAL

.....Petitioner

Through: Mr. Niraj Kumar Mishra, Mr. Abhinav Pandey, Advocates along with Petitioner in person

versus

THE STATE OF N C T OF DELHI & ORS.Respondents

Through: Mr. Rahul Tyagi, ASC for the State with Mr. Mathew M. Philip, Mr. Sangeet Sibou, Mr. Aniket Kumar Singh, Advocates along with SI Shilpy Gupta, AHTU/SW
Mr. Ripudaman Bhardwaj, SPP for CBI with Mr. Kushagra Kumar, Mr. Abhinav Bhardwaj, Mr. Amit Kumar Rana, Advocates

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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08.04.2025

CRL.M.A. 10829/2025 (for preponement of date of hearing)

1. For the grounds and reasons stated in the application, the same is allowed and the main writ petition is taken up on Board today itself, with the consent of the parties.

2. The present application is disposed of.

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3. The present petition under Article 226 of the Constitution of India,

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1950 read with Section 482 of the Code of Criminal Procedure, 1973¹ seeks the transfer of investigation of FIR No. 184/2022, P.S. Safdarjung Enclave to the Central Bureau of Investigation.²

4. The aforesaid FIR was registered following an application filed by the Petitioner under Section 156(3) CrPC, stating that his sister-in-law, Smt. Sheela had been missing since 9th March, 2021. The Petitioner disclosed that Smt. Sheela had been residing at House No. 7, First Floor, Krishna Nagar, Safdarjung Enclave, New Delhi.³ She was married to one Sh. Manjit, however, the couple had decided to live separately, after which Sh. Manjit left the house, and currently resides at an undisclosed location, unknown to the Petitioner. Following their separation, Smt. Sheela's son, Sh. Vijender @ Pappu, used to pay rent for the subject property to one Kuldeep Singh, who claimed to be the owner of the property, and resided in an adjacent property.

5. However, shortly after, Sheela's son Pappu, unfortunately passed away. After his death, the Petitioner and his wife began looking after Smt. Sheela. The Petitioner alleged that Smt. Sheela went missing on 9th March, 2021, after which his wife, Smt. Jyoti, filed a 'missing complaint' on 13th March, 2021 at P.S. Safdarjung Enclave. Despite this, the police took no action to trace her whereabouts. In the complaint, the Petitioner specifically accused the landlord, Kuldeep Singh, along with two of his associates, of possibly being involved in the disappearance of Smt. Sheela, citing a dispute related to the subject property.

6. The Petitioner contends that even after the registration of the aforementioned FIR, the police have failed to conduct a proper and thorough

¹ "CrPC"

² "CBI"

³ "subject property"



investigation, and to date, the whereabouts of Smt. Sheela have not been determined. The Petitioner further alleges that the police have exhibited negligence in the discharge of their duties, thereby failing to fulfil their obligations under the law. In view of these deficiencies, the Petitioner seeks the transfer of the investigation to the CBI.

7. The Court has duly considered the aforesaid contentions. It is pertinent to note that FIR No. 184/2022, concerning the disappearance of Smt. Sheela, was registered under Section 365 IPC at P.S. Safdarjung Enclave on 8th May, 2022. Following the registration of the FIR, investigation was conducted, and a chargesheet/final report under Section 173 CrPC was filed on 15th July, 2024. The chargesheet comprehensively details the actions undertaken by the police during the investigation to trace the whereabouts of Smt. Sheela, to the following effect:

“Her description and photograph were uploaded in Zonal Integrated Police Network System. This network is connected to eight adjoining states around Delhi.

A Wireless Telegraph Message was flashed to All Superintendent of Police and all Station House Officer in India.

Hue and cry notices were pasted in all Railway Stations, Bus Terminals, Police stations notice board, and many markets in Delhi.

State Crime Record Bureau and National crime Bureau were informed. Central Bureau of Investigation and Central Information Commission were intimated.

Missing person squad Rohini, Delhi informed and their reply was obtained. Her description and photograph were published in two national NEWS Papers, one in Hindi and one in English.

Police Head Quarters was announced Rupees 20,000/- reward who will give the information about missing Smt. Sheela.

PCR Calls of the month of March 2021 of the Police Station Safdurjung Enclave were analysed. Copies of the Rojnamcha of Safdurjung Police Station dated 06.03.2021 to 14.03.2021 were obtained. In which it was checked whether any information was recorded from anywhere regarding Smt. Sheela or anything similar to her description etc.

Her family members were examined in Delhi and Tehri Utrakhnad. The following persons were examined and their statements were recorded: Sitaram, Mohit, Rahul, Ram kumar Walia, Ranjan Kumar, Deep Singh,



Dinesh, Girish, Binita, Baldev, Jyoti, Urmila Devi, Sandeep, Shobha, Mahesh Baswal, Sunil Kumar, Dr. D. K. Yadav, Sulochna Devi, and Manav Goel.

Accused Kuldeep Singh, Moti Lal Ashwal, Durgesh Pal were given notice under section 160 Cr.PC and all three were interrogated several times. CDR and location of 2021 of the three accused was also sought which could not be obtained due to lapse of two years. The previous involvement/conviction of these three accused was ascertained and as per records obtained, no previous criminal case was found against them. From the investigation so far, no evidence of any kind has been found against these three. Accused Moti Lal Ashwal had expressed suspicion on a person named Vikas Tokas and he was interrogated but till now no evidence has come on file against him from the interrogation.

Every effort was made to obtain CCTV footage around the missing house and Safdurjung Enclave area but no footage could be found.

Where Smt. Sheela lived, she had only one way out of the house, which was through the main gate of the GTB apartment, where a private guard was hired by the society in the year 2021, whose name was Suraj. Police tried his best to search for Su raj only to find out that he had died.

Mortuary in-charges of many hospitals, Safdurjung Hospital, AllMS Hospital, Deen Dayal Hospital were given notice U/S 91 Cr.PC and mortuary records were obtained.

The following Shelters homes were given notices under section 91 Cr.PC and their reply were obtained:

- 1. Society for promotion of youth & masses B-4 Vasant Kunj New Delhi.*
- 2. Society for promotion of youth & masses near masjid sector 4 RK Puram Delhi.*
- 3. The Credence opposite fire station Hyatt Hotel RK Puram Delhi.*
- 4. The Prerna social development & welfare society Adhcini Village New Delhi.*
- 5. Society for promotion of Youth & Masses Nizamuddin Delhi.*
- 6. Padma shelter home, new swami dayanand colony, Saria Rohila Delhi.*
- 7. Shelter home Metia Khan Rani Jhansi Road Sadar Bazar Delhi.*

A notice under section 91 Cr.PC has been sent to the Director, Institute of Mental Health, Agra Uttar Pradesh and IHBAS Hospital Shahdara Delhi.

91 Cr.PC notices were given to the following four homes and their reply were obtained.

- 1. Old age home Bindapur, Delhi*
- 2. Aashirwad old age home, Delhi*
- 3. Sandhya home (for senior citizen), Delhi*
- 4. Aaradhna home (senior citizen home for ladies), Delhi*

In order to trace the missing Mrs. Sheela, the police sought information from the above-mentioned Government departments, Hospitals, Mental homes, Orphanages, Old age homes, Night shelter homes, Non-Governmental Organizations, by sending information about the missing



Sheela's appearance and photo, but despite tireless efforts, nothing was found about her.

Honourable Delhi High Court has been monitoring the investigation of this case for the last several months. On 15.01.2024, the Hon'ble justice passed written orders that the final report in this case would be filed.

This case has become very old. An untraced report has been prepared in this case. The information of which will be provided to the complainant through a notice. If any clue of Mrs. Sheela is found in future, the investigation will be started again. The untraced report is being filed in the concerned court. The court is requested to accept the untraced report."

8. The aforesaid portion of the chargesheet indicates that despite persistent efforts, the police were unable to trace the whereabouts of Smt. Sheela, resulting in the filing of an untraced report. In response to a specific query by this Court as to whether the Petitioner pursued the remedy of filing a protest petition before the concerned Court with respect to the findings in the final report, counsel for the Petitioner replies in negative and argues that this Court should review the final report and direct that investigation be transferred to the CBI. In support of this claim, he places reliance on the judgement of the Supreme Court in ***Rubabbuddin Sheikh v. State of Gujarat & Ors.***⁴

9. The Court has considered the aforementioned contentions, however remains unpersuaded. The Supreme Court, in several judgments, has consistently emphasized that directions for the CBI to conduct an investigation cannot be issued as a matter of routine, merely because a party has made allegations against the local police.⁵ Such a direction is an extraordinary power that must be exercised sparingly and only in exceptional circumstances. The Court, in ***State of W.B. v. Committee for***

⁴ (2010) 2 SCC 200.

⁵ Sakiri Vasu v. State of U.P., (2008) 2 SCC 409; Himanshu Kumar v. State of Chhattisgarh, (2023) 12 SCC 592.



Protection of Democratic Rights,⁶ observed as follows:

“The very plenitude of the power under the said Articles requires great caution in its exercise. In so far as the question of issuing a direction to the 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 levelled some allegations against the local police. This extra-ordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil 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 the 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.”

[Emphasis Supplied]

10. In light of the foregoing principles laid down by the Supreme Court, and considering that the police in the present case have taken adequate steps to trace the missing person, the Court does not find any reasonable basis to take the extraordinary step of issuing a direction for the investigation to be transferred to the CBI.

11. The Petitioner has sought to place reliance on ***Rubabbuddin Sheikh*** to argue that the mere filing of the chargesheet does not preclude the Court from directing the investigation to be transferred to the CBI or any independent agency. While the legal proposition advanced in the aforesaid judgement is indeed correct, it is pertinent to emphasize that this Court’s decision to decline the transfer of the investigation to the CBI is not predicated upon the filing of the chargesheet. Rather, it is grounded in the absence of any exceptional circumstances warranting such a transfer. For instance, in ***Rubabbuddin Sheikh***, the Petitioner alleged that his brother had

⁶ (2010) 3 SCC 571.



been killed by local police officials, thereby creating a legitimate apprehension that the investigation would not be conducted fairly or impartially due to the involvement of the police. It was in light of these extraordinary circumstances that the Supreme Court directed the transfer of the investigation to the CBI, to ensure fair and impartial investigation. In contrast, the chargesheet in the present case demonstrates that the police authorities have undertaken reasonable and adequate steps to trace the whereabouts of Smt. Sheela. However, despite these diligent efforts, they have been unsuccessful in locating her. Additionally, no allegations have been made regarding the involvement of the police in the disappearance of Smt. Sheela. Therefore, the Court finds no grounds to conclude that the investigation is unfair or impartial, and thus, no basis exists to transfer the case to the CBI.

12. Accordingly, in light of the facts and circumstances, the Court finds no merit in the present petition. However, should the Petitioner have any grievances regarding the chargesheet/ final report under Section 173 of the CrPC, they are at liberty to approach the concerned Trial Court by way of a protest petition.

13. With the above directions, the present petition is disposed of.

14. The next date of hearing fixed, i.e., 09th July, 2025 stands cancelled.

SANJEEV NARULA, J

APRIL 8, 2025/ab