SUPREME COURT OF INDIA

Bench : J.K. Maheshwari and Sudhanshu Dhulia, JJ.)

Date of Decision: March 22, 2024.

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.__________ OF 2024

(ARISING OUT OF SPECIAL LEAVE PETITION (CRIMINAL) NO.8034 OF 2018)

AWUNGSHI CHIRMAYO AND ANR. ...APPELLANTS

VERSUS

GOVERNMENT OF NCT OF DELHI AND OTHERS …RESPONDENTS

Legislation:

Section 306, 302 of the Indian Penal Code, 1860

Section 173 of the Criminal Procedure Code

Subject: Appeal against the High Court's decision, seeking CBI investigation in the death of a 25-year-old girl from Manipur, initially treated as suicide and later as homicide, with no conclusive results from the police and SIT investigation.

Headnotes:

Criminal Law – Unresolved Homicide – CBI Investigation Ordered – In Awungshi Chirmayi and Anr. v. Government of NCT of Delhi and Ors., the Supreme Court dealt with the circumstances of an unresolved homicide case involving a 25-year-old woman from Manipur. The case exhibited inconsistencies and inconclusive evidence from the initial investigations. The Supreme Court, noting the ineffectiveness of the police investigation and the peculiar circumstances of the case, ordered a CBI investigation. [Para 3, 5-7, 9-11, 16-17]

Investigation Standards – Efficacy and Fairness – The Court emphasized the importance of effective and fair investigation in criminal cases, underscoring that unresolved crimes diminish public trust in law enforcement institutions. The case highlights the challenges faced by the kin of the deceased who reside in remote areas in seeking justice. [Para 16]

Jurisdiction and Powers of the Supreme Court – Intervention in Criminal Investigations – The Supreme Court reiterated its wide powers to direct further investigation in criminal matters, irrespective of the stage of the case. This intervention is warranted in situations where the existing investigation fails to provide conclusive results or raise public confidence in its outcomes. [Para 13-14, 16]

Right to Fair Investigation – Principle Upheld – The decision reaffirms the principle that every citizen, irrespective of their geographical location or background, has a right to a fair and thorough investigation in criminal matters. The Court's intervention reflects its commitment to ensuring justice and credibility in the investigative process. [Para 15-16]

Decision – Transfer of Case to CBI – The Court set aside the Delhi High Court's order and directed the transfer of the case to the Central Bureau of Investigation (CBI) for a comprehensive investigation. This decision was made to address the concerns of the appellants, ensure an unbiased probe, and apprehend the true perpetrators. [Para 17]

Criminal Procedure – Transfer of Investigation – The Court instructed the Special Investigation Team (SIT), previously handling the case, to transfer all relevant documents and findings to the CBI. The CBI is mandated to conduct an expedited investigation and submit a report or charge sheet to the competent court. [Para 17]

Referred Cases:

- State of West Bengal and Others vs Committee for Protection of Democratic Rights, West Bengal and others (2010) 3 SCC 571
- Bharati Tamang v. Union of India and Others (2013) 15 SCC 578
- Zahira Habibulla H. Sheikh v. State of Gujarat (2004) 4 SCC 158

J U D G M E N T Leave granted.

2. The appellants before this Court are the two cousins of the deceased who was found dead in her rented accommodation in House No.424-B, Ground Floor, Chirag Delhi on 29.05.2013. The deceased was a 25 years old young girl who was a permanent resident of Manipur and at the relevant time was working in a call centre at Delhi. The post mortem was conducted next day on 30.05.2013 which recorded following observations:

"a) Part of nose is missing over right side and piece of it is attached on the left side.
b) Nibbling marks present over boththe upper eye lids
c) wound size of 5 cm is present overdorsum of right foot; margins are irregular and show nibbling marks
d) all wounds are post mortem inorigin"

The cause of death could not be ascertained in the post mortem report.

3. Some puzzling facts of this case leading to this appeal are that the First Information Report (for short 'FIR') was only registered by the police on 31.05.2013, initially under Section 306 of Indian Penal Code (for short 'IPC'), against unknown persons, when there was blood spattered all over the room and the face of the deceased was smashed, as we are given to understand. It was only later converted to a case

under Section 302 of IPC. Initially, investigation was conducted by the Crime Branch and a second post mortem report was submitted again with no clear cause of death determined.

4. The body of the deceased was discovered on 29.05.2013 by the landlord of the tenanted premises who alerted PCR at 11am on the same day and this was recorded as DD No. 20A. The postmortem of the deceased was conducted on 30.05.2013 by a Senior Resident of the All India Institute of Medical Sciences (AIIMS) who recorded injuries on the body of deceased, while opinion about the cause of death was not given and the viscera analysis report and other reports from Central Forensic Science Laboratory (CFSL), were yet to come.

5. The FIR No. 253 of 2013 was registered on 31.05.2013 at Police Station, Malviya Nagar against unknown accused persons under Section 306 of the Indian Penal Code, 1860 (hereafter “IPC”). The investigation was transferred to the Crime Branch, Malviya Nagar the next day, i.e., 01.06.2013 and pursuant to representations by the appellants, offence under Section 302 of IPC was added. On 04.06.2013 a second post-mortem was conducted by a Medical Board of three doctors from Maulana Azad Medical College & Lok Nayak Hospital, and noted eleven injuries on the person of deceased-victim, however, the opinion regarding the cause of death was not given due to the pendency of viscera chemical analysis and histopathology reports.

6. Meanwhile, the appellants herein had filed Writ Petition (Criminal) No. 1364 of 2013 before the Delhi High Court praying for direction for the investigation to be given to the Central Bureau of Investigation (for short ‘CBI’), who is also respondent No. 3 in the present matter. During the pendency of this Writ Petition, an order dated

11.04.2017 was passed recording the submission made by the counsel for Government of NCT that the final report which was submitted on 24.02.2015 under Section 173 of CrPC before the Chief Metropolitan Magistrate (South), has been agreed to be withdrawn and matter will be subjected to further investigation.

7. The High Court ultimately dismissed this Writ Petition for reasons which are four-fold. Firstly, it was noted that polygraph test had been conducted on the suspects Raj Kumar and Amit Sharma on 26.12.2013, however, no opinion could be formed about their involvement. Secondly, the DNA of the semen samples recovered from the undergarment of the deceased did not match with the DNA samples of the accused. Thirdly, the boyfriend of the deceased had not joined investigation, he was absconding and could not be traced. Fourthly, despite the post mortem conducted on the deceased, there was no conclusive cause of death which could be ascertained.

8. While considering all these factors, the High Court was of the opinion that simply because the premises of the landlord had an access to the room of the deceased it could not be said that they were guilty of committing the crime, the relevant observations of the High Court are as follows:

"19. The investigation has been carried out by the investigating agency seemingly without any bias. Nothing has emerged on record if the landlord Raj Kumar and his brotherin-law Amit Sharma were having strong connection with any politician to influence the investigation. The petitioners have not furnished clinching evidence to, prima facie, infer the involvement of Raj Kumar and Amit Sharma in the crime. Their suspicion is based upon 'no evidence'.
Merely because, the landlord and his brother- in-law had access to the victim's room by scaling the 7 feet grill, it cannot be inferred at this stage that it was they who had committed the crime.

20. Since all efforts have been made by the Crime Branch to solve the case, handing over the investigation to CBI, at this stage, would serve no purpose. Investigation to CBI can be ordered only in exceptional situation and such an order is not to be passed as a routine merely because, a party has levelled vague allegations. ['State of West Bengal & Ors. vs. Committee for Protection of Democratic Rights',
2010 (3) SCC 571]."

9. This order of the High Court is presently under challenge before this Court, where the appellants pray that a thorough investigation be done by CBI. Vide Order dated 05.02.2019, this Court had constituted Special Investigation Team (SIT) to monitor the investigation. The SIT so constituted submitted two status reports on 25.07.2019 and 21.10.2019. All the same, the investigation which has been conducted by the police and later by the SIT yielded no conclusive result. The SIT in its report has reached the following conclusion:

"From the investigation conducted so far, circumstantial evidences suggest that Ms. A.S. Reingamphi @ A.S. Solam D/o Sh. A.S.
Chihanpam r/o Village-Choithar, Ukhrul-District, Manipur had committed suicide by consuming some poison/medicine, though the viscera reports did not reveal presence of any common posion/medicine in the exhibits. Till now there is no evidence on record to support the allegation of murder or abetment of suicide or foul play or commission of any other offence in this case.
-SdDy. Commissioner of Police
Crime (Cyber & FICN), Delhi

10. The present appellants, who are close relatives of the deceased and are residents of the State of Manipur, have always claimed that it is a case of rape and murder, and the police is trying to shield the accused. The deceased comes from a "Ukhrul" District in the State of Manipur, which is far away from Delhi. The kith and kin of the deceased, who are before this Court are only praying for an effective investigation so that the culprits can be apprehended and brought to justice.

11. Apparently there seems to be no reason for a young girl of 25 years of age to commit suicide. *Prima facie* it does not seem to be a case of suicide. The crime scene shows that blood was spattered on the floor and the bed sheet was completely drenched in blood. It appears to be a homicidal death and therefore the culprits must be apprehended.

12. Mr. K.M. Nataraj, learned Additional Solicitor General of this Court, in his usual fairness submits that he has no objection, if the investigation in the present case is handed over to the CBI.

13. In a seminal judgment reported as ***State of West Bengal and Others*** *vs* ***Committee for Protection of Democratic Rights, West Bengal and others (2010) 3 SCC 571,*** this Court has discussed in detail inter alia the circumstances under which the Constitutional Courts would be empowered to issue directions for CBI enquiry to be made. This Court noted that the power to transfer investigation should be used sparingly, however, it could be used for doing complete justice and ensuring there is no violation of fundamental rights. This is what the Court said in Para 70:

*"**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 levelled some allegations against the local police. <u>This extraordinary 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</u>…*

emphasis supplied

14. The powers of this Court for directing further investigation regardless of the stage of investigation are extremely wide. This can be done even if the chargesheet has been submitted by the prosecuting

agency. In the case of ***Bharati Tamang v. Union of India and Others (2013) 15 SCC 578***, this Court allowed the Writ Petition filed by the widow of late Madan Tamang who was killed during a political clash and directed investigation by the CBI which would be monitored by the Joint Director, CBI. The following observations were made in Para 44:

*"**44**…Whether it be due to political rivalry or personal vengeance or for that matter for any other motive a murder takes place, it is the responsibility of the police to come up to the expectation of the public at large and display that no stone will remain unturned to book the culprits and bring them for trial for being dealt with under the provisions of the criminal law of prosecution. Any slackness displayed in that process will not be in the interest of public at large and therefore as has been pointed out by this Court in the various decisions, which we have referred to in the earlier paragraphs, we find that it is our responsibility to ensure that the prosecution agency is reminded of its responsibility and duties in the discharge of its functions effectively and efficiently and ensure that the criminal prosecution is carried on effectively and the perpetrators of crime are duly punished by the appropriate court of law."*

15. This Court has expressed its strong views about the need of Courts to be alive to genuine grievances brought before it by ordinary citizens as has been held in ***Zahira Habibulla H. Sheikh v. State of Gujarat (2004) 4 SCC 158***.

16. It is to observe that unresolved crimes tend to erode public trust in institutions which have been established for maintaining law and order. Criminal investigation must be both fair and effective. We say nothing on the fairness of the investigation appears to us, but the fact that it has been ineffective is self evident. The kith and kin of the deceased who live far away in Manipur have a real logistical problem while approaching authorities in Delhi, yet they have their hope alive, and have shown trust and confidence in this system. We are therefore of the considered view that this case needs to be handed over to CBI,

for a proper investigation and also to remove any doubts in the minds of the appellants, and to bring the real culprits to justice.

17. In view of the discussion made above, the order of the Delhi High Court dated 18.05.2018, dismissing the prayer of the present appellants to transfer the investigation to CBI is hereby set aside. The appeal is hereby allowed and we direct that CBI to hold enquiry in the matter. The case shall be transferred from SIT to the CBI. The SIT, which has so far conducted the investigation in the matter, will hand over all the relevant papers and documents to CBI for investigation. After a thorough investigation, CBI will submit its complete investigation report or charge sheet before the concerned court as expeditiously as possible. Pending application(s), if any, shall stand disposed of.