[2025] 4 S.C.R. 1522 : 2025 INSC 556

Ramachandraiah & Anr.
v.
M. Manjula & Ors.

(Criminal Appeal No. 2179 of 2025)

23 April 2025

[Dipankar Datta and Prashant Kumar Mishra,* JJ.]

Issue for Consideration

Whether in the facts and circumstances of the case, the High Court was justified in directing for investigation by the CBI.

Headnotes†

Investigation – CBI investigation – Direction by High Court – Deceased was a close confidant of one DKA, a Member of Parliament – He owned many immovable properties – After the death of DKA, tiff between the deceased and the children of DKA (one of the appellants) as regards those properties – Deceased died under mysterious circumstances – FIR registered *inter alia* against appellants for murder of the deceased – SIT constituted – Magistrate not satisfied with the investigation conducted by SIT, directed further investigation by Police – Challenged by wife and son of the deceased, High Court directed CBI to conduct further investigation – Correctness:

Held: High Court rightly directed the investigation by CBI – Once an FIR is registered and investigation has taken place, direction for an investigation by the CBI is not open to challenge by the prospective suspect or accused – The matter for entrusting investigation to a particular agency is basically at the discretion of the Court – On facts, the truth surrounding the death of the deceased needs to be settled after a complete and fair investigation by CBI – Deceased was closely associated with DKA, an MP and Chairman of Temple Sri Venkateswara Swamy Temple (Tirumala Tirupathi Devasthanam) – Deceased was a successful realtor and had huge assets in and around Bangalore – His mysterious death was preceded by execution of two different Wills, one in favour of his wife-respondent no.1 and the other in favour of respondent No.12 which was registered after his controversial death – There are also civil proceedings relating to mutation and declaration of

* Author

title as well as the allegations concerning forgery of stamp papers – The Magistrate while directing further investigation and the High Court, under the impugned order, highlighted the glaring defects in the investigation – Order of the High Court affirmed. [Paras 16, 18]

Constitutional Courts – Power to direct CBI investigation – To be exercised sparingly and in exceptional circumstances:

Held: High Court or the Supreme Court being Constitutional Court is vested with extra-ordinary power to direct CBI investigation depending upon the facts and circumstances of the case – The Constitutional Courts are expectantly and reverently entrusted with the duty to serve justice being a sovereign and premiere constitutional institution – Power to direct for CBI investigation is to be exercised sparingly and in exceptional circumstances, but, when the facts so demand, it is extremely necessary to exercise the said power to provide credibility and instil confidence in order to do complete justice and for enforcing the fundamental rights. [Para 11]

Case Law Cited

Union of India & Anr. v. W.N. Chadha **[1992] Supp. 3 SCR 594 : (1993) Supp. 4 SCC 260;** *Satishkumar Nyalchand Shah v. State of Gujarat & Ors.* **[2020] 3 SCR 1106 : (2020) 4 SCC 22 – relied on.**

Vinay Tyagi v. Irshad Ali **[2012] 13 SCR 1005 : (2013) 5 SCC 762;** *Pooja Pal v. Union of India & Ors.* **[2016] 11 SCR 560 : (2016) 3 SCC 135;** *Mandakini Diwan & Anr. v. High Court of Chhattisgarh & Ors.* **[2024] 9 SCR 86 : 2024 SCC online SC 2448 – referred to.**

List of Acts

Penal Code, 1860; Code of Criminal Procedure, 1973.

List of Keywords

CBI investigation; Direction by High Court for CBI investigation; Prospective suspect or accused; Writ of *mandamus*; Further investigation; Mysterious death; D.K. Adikeshavalu, Member of Parliament; Close aid; Fabricated Will; Posthumously registered; Private Complaint; Special Investigation Team (SIT) Report; Investigation lopsided; Constitutional Courts; Extra-ordinary power to direct CBI investigation; Prospective Accused; Right to defend at preliminary stage; No right to be heard at stage of registration of FIR.

Case Arising From

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 2179 of 2025

From the Judgment and Order dated 03.09.2022 of the High Court of Karnataka at Bengaluru in WP No. 7784 of 2022

With

Criminal Appeal No. 2180 of 2025

Appearances for Parties

Advs. for the Appellants:
Aman Lekhi, Ms. Mahalakshmi Pavani, Sr. Advs., Ujjwal Sinha, Aniket Seth, G. Balaji, Tomy Chacko, Neeleshwar Pavani, Ms. Shaurya Mishra, Ms. Tualia Rehman.

Advs. for the Respondents:
K M Nataraj, A.S.G., Nishanth Patil, A.A.G., Mukul Rohatgi, Dushyant Dave, Devadatt Kamat, Sr. Advs., Mahesh Thakur, Ms. Anuparna Bordoloi, Akshat Malpani, Mrs. Geetanjali Bedi, Ranvijay Singh Chandel, Ms. Ayushi Gaur, V. N. Raghupathy, Revanta Solanki, Ayush P. Shah, Vignesh Adithiya S, Mukesh Kumar Maroria, V V V Pattabhi Ram, Prashant Rawat, Purnendu Bajpai, Rajat Nair, Raman Yadav, Mrs. Khushboo Aggarwal, Sharath Nambiar, Paras Nath Singh, Rizwan Ahmed, Rizwan Ahmad, Shakeel Ahmed, Shakeel Ahmad, Sadashiv, Nishant Sanjay Kumar Singh, Fatesh Kumar Sahu, Devendra Kumar Gupta, Sachin Agarwal, Ms. Mumtaz Javed Shaikh, Ms. Pushpa Gupta, Ashish Singh, Ashish Kumar Pandey, Junaid Mohd Junaid.

Judgment / Order of the Supreme Court

Judgment

Prashant Kumar Mishra, J.

Leave granted.

2. These appeals would call in question, the impugned Judgment dated 03.09.2022 passed by the High Court of Karnataka at Bengaluru in Writ Petition No. 7784 of 2022 whereby the writ petition preferred by the Respondent No. 1 was allowed in-part and the orders of

Magistrate dated 21.02.2022 and 10.03.2022 passed in P.C.R.No. 51691 of 2020 were set aside only insofar as they directed further investigation to be conducted by HAL Police Station. Furthermore, a writ of mandamus was issued to the Central Bureau of Investigation, New Delhi/respondent No. 11 to conduct further investigation in Crime Nos. 89 of 2020, 148 of 2020 and 7 of 2021 and submit its report to the concerned Court within an outer limit of six months.

3. The appeal arising out of SLP (Crl) No. 10515 of 2022 has been preferred by 10th respondent before High Court which would be decided along with this appeal.

4. Brief facts leading to the filing of the present petition, as borne out from the pleadings, are as follows:

   4.1. The Respondent No.1 who was the 1st petitioner before the High Court is the wife of one K. Raghunath (hereinafter referred to as deceased) and Respondent No.2 is the son of Respondent no.1. The deceased during his lifetime allegedly owned many immovable properties in different places in the District of Bangalore and in several other places. It is averred that the deceased was closely related to one D.K. Adikeshavalu,[1] a member of Parliament who was active in politics in his lifetime. DKA died on 24.04.2013 and then began the scouting of the properties held by DKA. The children of DKA, in particular Respondent No.12 who is also the appellant No.1 in appeal arising out of SLP (Crl) No.10515 of 2022 and his other close associates started pressuring the deceased for transfer of some of the immovable properties owned by him. Respondent No. 12 alleged that the source of income of those properties which is in the deceased's name is of their father. However, it is the case of the Respondents that the deceased resisted pressure of Respondent No. 12 and asserted that he is the absolute owner of the properties acquired from his own source of income generated from real estate. As a result, the tiff between the deceased and the children of the deceased DKA became irreconcilable.

   4.2. In the year 2016, it transpired that an income tax raid took place in the premises of late DKA which was attributed to the

1 'DKA'

deceased. It is contended by the respondents that the deceased had executed a registered Will on 28.01.2016 bequeathing all the properties owned by him in favour of 1st respondent. It is the case of the appellant that the deceased did not disclose the fact of execution of the Will to any of the appellants herein during his lifetime. Somehow, when the deceased wanted to sell one of the properties and was about to execute a sale deed on 4.05.2019, the Respondent no. 12 herein got to know of the same and he with his sister i.e. 14th respondent, summoned the deceased to the place of the 14th respondent. On being summoned the deceased left the house on the afternoon of 02.05.2019 informing the respondents herein that he was going to meet 12th and 14th respondents. The deceased was missing for two days and thereafter, on 04.05.2019, at 7.00 a.m., it was contended by the respondent that they received a call from the deceased that his life was in danger. Since K. Raghunath had expressed threat to his life, the Respondent No.1 sent his son/respondent No.2 to the house of the first appellant in appeal arising out SLP No. 10515/2022) to verify about his father. The 2nd respondent went to the guest house situated in Whitefield, Bengaluru and saw his father hanging to a ceiling fan at about 8.30 a.m. The statement of the 2nd respondent/son was recorded on the same day, who at that point of time did not suspect anyone and thought that it was an act of suicide by his father and gave a statement accordingly to the Police that he was not suspecting anyone. Based upon the said statement of the son, an unnatural death report was generated in U.D.R.No.28 of 2019 by the H.A.L.Police and the case was closed.

4.3. On 15.02.2020, a complaint came to be registered by the Respondent No.1 alleging that her husband i.e. the deceased had been murdered by respondents 12 to 14 and others. However, the police refused to register the said complaint. When the crime was not registered, the Respondent No.1 preferred a private complaint bearing P.C.R.No.51691 of 2020 invoking Section 200 of the Cr.P.C alleging commission of murder of her husband K. Raghunath by respondents 10 to 14. After conducting an inquiry in the matter, the learned Magistrate ordered an enquiry on 02.03.2020. In terms of the order an

FIR came to be registered against respondents 10 to 13 and appellants, in Crime No.89 of 2020 for offences punishable under Sections 34, 120B, 467, 468, 421, 474, 302, 464 and 471 of the IPC. It was followed by two other crimes which also came to be registered in Crime No.148 of 2020 u/s. 34, 120B, 468, 465, 471, 420 of Indian Penal Code, 1860 against appellants and Respondent No. 12 and 13 and Crime No. 7 of 2021 which was lodged u/s. 420, 255, 257, 259, 256, 258 and 260 of Indian Penal Code, 1860 against unknown persons. The crime was registered on 05.03.2020 i.e. after almost ten months of the incident. Several civil proceedings against the respondents were generated after registration of the crime alleging murder of the deceased.

4.4. In the interregnum, the respondents knocked the doors of High Court in Writ Petition No. 4333 of 2021 when the investigation was not completed despite an order of registration of crime. The said petition was disposed of directing the constitution of a SIT to enquire into the complaint within two weeks. In terms of the direction, an order was issued by the Department to constitute a three-member Special Investigation Team (SIT). The SIT conducted investigation and filed a 'B' report before the concerned Court in Crime No.89 of 2020 and other crimes 148 of 2020 and 7 of 2021. The learned Magistrate by his order dated 21.02.2022 rejected the 'B' report and directed Station House Officer of HAL Police Station before whom the complaint had been initially registered to conduct further investigation and submit a report on or before 22.04.2022. The learned Magistrate observed that SIT did not investigate the case with all fairness and that the investigation was lopsided. The learned Magistrate observed that the report of SIT has not taken into account material aspects leading to the death of the deceased like the cause of death, the events subsequent to the death of the deceased etc. which were material facts which needed to be investigated. As a result, the Magistrate declared the investigation conducted by SIT as unsatisfactory, shoddy and callous. The Respondents called in question the said order passed by learned Magistrate and sought that the investigation of the case be entrusted to CBI in the light of SIT having already filed a 'B' report in the matter.

4.5. The High Court vide the impugned order allowed the writ petition of respondents in part and ordered a writ of mandamus to CBI to conduct further investigation. The High Court observed that the direction passed by the learned Magistrate whereby it directed further investigation to be conducted by the HAL Police Station was rendered without jurisdiction and required it to be obliterated, as power of superior Court cannot be exercised by the learned Magistrate.

4.6. Subsequently, CBI registered FIR against appellants and Respondent No. 12 to 14 in RC.5/S/2022/CBI/SCB on 30.09.2022 in pursuance of the direction passed by the High Court vide impugned Order. The Crime no 06(S)/2022 and RC 7(S)/2022 were also registered by CBI, Special Branch Chennai. The appellants have preferred appeals against the impugned order. In the meanwhile, CBI conducted a raid on 11.11.2022 at the residential office and residential premises of Respondent No. 12-14.

CONTENTIONS OF THE PARTIES:

5. At the outset, learned senior counsel Mr. Aman Lekhi for the appellants would contend that the direction to conduct 'further investigation' by CBI in Crime Nos. 89 & 148 of 2020 and Crime No. 7 of 2021 is illegal and unsustainable.

He further argued that the appellants did not suppress the orders dated 09.12.2020 & 04.07.2022 in CRL Petition Nos. 2642 of 2020 & 5856 of 2022 respectively as alleged by respondents herein which pertained to quashing petitions filed u/s 482 Cr.P.C vis-à-vis quashing criminal proceedings arising from only one FIR i.e. Crime No. 89/2020 in P.C.R. 51691/20 which is not the subject matter in the present appeals.

Learned senior counsel questioned whether the Ld. Magistrate had jurisdiction to even take cognizance u/s 190(1)(a) Cr.P.C when proceedings u/s 174 Cr.P.C has been closed, and more so even direct for investigation into an offence exclusively triable by the court of sessions through a private complaint belatedly filed by exercising the limited power u/s 202(1) Cr.P.C. which dealt with only ascertaining whether or not there was sufficient ground for proceeding.

Learned senior counsel submitted that respondents herein had filed private complaint against the appellants herein belatedly after a lapse of over ten months and post obtaining knowledge with regards to the fact that the appellants had been witnesses to the last will of deceased dated 20.04.2018 which bestowed limited benefits on respondents No.1 & 2. The appellants' counsel also argued that Respondent No.2 who was the informant in UDR case gave an identical statement that his father was in financial distress and committed suicide. It was argued that pursuant to Order dated 28.04.2021 passed by High Court of Karnataka in W.P. 4333/2021, SIT headed by a Deputy Commissioner of Police was appointed who submitted a 639-pages B-report with the finding that there were no material evidences to link the appellants herein vis-à-vis the allegations levelled by Respondent No.1 in the private complaint. Further it was argued that appellants are father and brother of the deceased who are impecunious farmers. Appellant No. 1 is 89 years old who is at the fag end of his life and the younger brother who is appellant No.2 had all his life lived in Chittoor. Learned counsel contended that Respondent No.1, 2 and the other grandson wants to usurp all the properties of the deceased son which rightly belonged to D.A Srinivas.

The learned senior counsel for the appellants further argued that no direction for investigation could have been made by the learned Magistrate under section 202 of the Code as offence complained was triable exclusively by the Court of Session and Magistrate was obligated to make an enquiry and call upon the complainant to produce all her witnesses and examine them on oath as contained under section 202(2) of the Code. Even after that, FIR could not be registered since FIR could have been registered only under Chapter XII of the Code. The Counsel pointed out that the procedure adopted is unknown to the law since there was no occasion for transfer of investigation to CBI since the registration of FIR was in itself illegal. In fact, no hearing was afforded to the appellants.

6. *Per contra*, Mr. Mukul Rohatgi and Mr. Dushyant Dave, learned senior counsel appearing for the respondents would submit that the deceased was a confidant of former Member of Parliament, DKA and being a successful realtor had lawfully acquired several movable and immovable properties during his lifetime which was to be succeeded by wife and children. Since the deceased was apprehending danger to his life, he had executed a Will dated 28.01.2016 expressing his wish

to bequeath all the properties in favour of his wife/respondent no.1. However, suddenly a fabricated Will dated 20.04.2018, posthumously registered on 31.12.2019 came into existence bequeathing the properties of the deceased in favour of respondent no. 12 which was prepared in connivance with respondent no. 13 in furtherance of the conspiracy to extort the properties. In the report of the Truth Lab (Annexure R-3 in this appeal), it was found that the Will dated 20.04.2018 was fabricated. The Office of Gandhinagar Sub-Registrar has also filed a complaint before the Halasuru Police station on conducting an independent preliminary inquiry on the complaint lodged by respondent no. 2. Later on, an FIR dated 04.01.2021 bearing Crime No. 7 of 2021 came to be registered for counterfeiting stamps and documents (Annexure P-17 in this appeal). Basing this it is argued that the constitution of SIT turned into a nightmare and sitting like a snake in the grass. Therefore, the High Court has rightly directed for an investigation by the CBI.

Mr. Mukul Rohatgi, learned senior counsel would vehemently argue that when the learned Magistrate directed for registration of FIR, the appellants preferred Criminal Petition No. 2642 of 2020 before the High Court seeking quashing of the order directing registration of FIR in Crime No. 89 of 2020 and the entire criminal proceedings as well including the investigation of HAL Police Station, Bangalore. However, the said petition was dismissed as withdrawn vide order dated 09.12.2020 (Annexure R-4 in this appeal). Therefore, the argument challenging registration of FIR is no longer available to the appellants.

Referring to the discrepancies in the SIT report which is highlighted in the order passed by the learned Magistrate as well as in the impugned order, Mr. Rohatgi would submit that the High Court has rightly interfered in the matter to direct fair and impartial investigation by the CBI.

ANALYSIS

7. We have heard learned counsel for the parties at length who have taken us through the entire material on record. However, considering the nature of the order, we propose to pass, we are not referring to the details, lest it may affect either of the parties at any subsequent proceeding including CBI investigation.

8. The main thrust of the arguments advanced by the learned counsel for the appellants revolved around the Magistrate's power to direct for registration of FIR for an offence exclusively triable by the Sessions Court. However, despite seriously considering the said argument, we are not impressed to dwell on the issue for the reason that when the learned Magistrate directed for registration of FIR vide its order dated 02.03.2020, the appellants challenged the same by preferring Criminal Petition No. 2642 of 2020 under Section 482 Cr.P.C. which came to be dismissed as withdrawn vide order dated 09.12.2020 in the following words:

> **"**This Criminal Petition is filed under Section 482 of Cr.P.C., praying to quash the entire Criminal Proceedings pending on the file of the Hon'ble XXIX ACMM, Mayo Hall Bengaluru PCR No. 51691/2020 and its consequent registration of FIR in Cr. No. 89/2020 and pursuant investigation by 1st respondent H.A.L. Police Station, Bengaluru.
>
> This Criminal Petition coming on for Admission this day, through video conference the Court made the following:
>
> **ORDER**
>
> Sri. Sanjay Yadav, learned counsel appearing for Sri. Mahesh S., learned counsel for the petitioners filed a memo dated 09.12.2020 seeking permission to withdraw the petition reserving liberty to approach this Hon'ble Court, if necessary, in future.
>
> 2. Sri. Hashmath Pasha, learned Senior Counsel for Sri. Kaleem Sabir, learned counsel for respondent No. 2 is also present virtually. He submits that he has no objection to withdraw the petition.
>
> 3 The said memo is placed on record and the petition is **dismissed as withdrawn**.
>
> In view of disposal of the main petition, I.A.No. 1/2020 does not survive for consideration and the same is also liable to be disposed.
>
> **Sd/-**
> **JUDGE"**

9. The appellants having withdrawn the challenge to the registration of the FIR, we are not in a position to take the cause further as it has become final and binding on the parties. Thus, the issue regarding registration of FIR is not open to be called in question in any subsequent proceedings.

10. We shall now consider as to whether in the facts and circumstances of the case, the High Court was justified in directing for investigation by the CBI.

11. It has been settled in catena of decisions that the High Court or the Supreme Court being Constitutional Court is vested with extra-ordinary power to direct CBI investigation depending upon the facts and circumstances of the case. The Constitutional Courts are expectantly and reverently entrusted with the duty to serve justice being a sovereign and premiere constitutional institution. In "**Vinay Tyagi vs. Irshad Ali"[2],** this Court has held that the power to direct for CBI investigation is to be exercised sparingly and in exceptional circumstances, but, when the facts so demand, it is extremely necessary to exercise the said power to provide credibility and instil confidence in order to do complete justice and for enforcing the fundamental rights. The following principle has been laid down by this Court in paragraphs 33, 43, 44 & 45:

> "**33.** This judgment, thus, clearly shows that the Court of Magistrate has a clear power to direct further investigation when a report is filed under Section 173(2) and may also exercise such powers with the aid of Section 156(3) of the Code. The lurking doubt, if any, that remained in giving wider interpretation to Section 173(8) was removed and controversy put to an end by the judgment of this Court in *Hemant Dhasmana* v. *CBI* [(2001) 7 SCC 536 : 2001 SCC (Cri) 1280] where the Court held that although the said section does not, in specific terms, mention the power of the court to order further investigation, the power of the police to conduct further investigation envisaged therein can be triggered into motion at the instance of the court. When any such order is passed by the court, which has the jurisdiction to do so, then such order should not even be interfered

2 (2013) 5 SCC 762

with in exercise of a higher court's revisional jurisdiction. Such orders would normally be of an advantage to achieve the ends of justice. It was clarified, without ambiguity, that the Magistrate, in exercise of powers under Section 173(8) of the Code can direct CBI to further investigate the case and collect further evidence keeping in view the objections raised by the appellant to the investigation and the new report to be submitted by the investigating officer, would be governed by sub-section (2) to sub-section (6) of Section 173 of the Code. There is no occasion for the Court to interpret Section 173(8) of the Code restrictively. After filing of the final report, the learned Magistrate can also take cognizance on the basis of the material placed on record by the investigating agency and it is permissible for him to direct further investigation. Conduct of proper and fair investigation is the hallmark of any criminal investigation.

43. At this stage, we may also state another well-settled canon of the criminal jurisprudence that the superior courts have the jurisdiction under Section 482 of the Code or even Article 226 of the Constitution of India to direct "further investigation", "fresh" or "de novo" and even "reinvestigation". "Fresh", "de novo" and "reinvestigation" are synonymous expressions and their result in law would be the same. The superior courts are even vested with the power of transferring investigation from one agency to another, provided the ends of justice so demand such action. Of course, it is also a settled principle that this power has to be exercised by the superior courts very sparingly and with great circumspection.

44. We have deliberated at some length on the issue that the powers of the High Court under Section 482 of the Code do not control or limit, directly or impliedly, the width of the power of the Magistrate under Section 228 of the Code. Wherever a charge-sheet has been submitted to the court, even this Court ordinarily would not reopen the investigation, especially by entrusting the same to a specialised agency. It can safely be stated and concluded that in an appropriate case, when the Court feels that the investigation by the police authorities is not in the proper

direction and that in order to do complete justice and where the facts of the case demand, it is always open to the Court to hand over the investigation to a specialised agency. These principles have been reiterated with approval in the judgments of this Court in *Disha* v. *State of Gujarat* [(2011) 13 SCC 337 : (2012) 2 SCC (Cri) 628], *Vineet Narain* v. *Union of India* [(1998) 1 SCC 226 : 1998 SCC (Cri) 307], *Union of India* v. *Sushil Kumar Modi* [(1996) 6 SCC 500] and *Rubabbuddin Sheikh* v. *State of Gujarat* [(2010) 2 SCC 200 : (2010) 2 SCC (Cri) 1006].

45. The power to order/direct "reinvestigation" or "de novo" investigation falls in the domain of higher courts, that too in exceptional cases. If one examines the provisions of the Code, there is no specific provision for cancellation of the reports, except that the investigating agency can file a closure report (where according to the investigating agency, no offence is made out). Even such a report is subject to acceptance by the learned Magistrate who, in his wisdom, may or may not accept such a report. For valid reasons, the court may, by declining to accept such a report, direct "further investigation", or even on the basis of the record of the case and the documents annexed thereto, summon the accused."

12. Yet again in "**Pooja Pal vs. Union of India & Ors.**[3]**,** this Court has held thus in paras 75, 79 & 80 :

"**75.** That the extraordinary power of the constitutional courts under Articles 32 and 226 of the Constitution of India qua the issuance of direction to CBI to conduct investigation must be exercised with great caution, was underlined in *Committee for Protection of Democratic Rights* [*State of W.B.* v. *Committee for Protection of Democratic Rights*, (2010) 3 SCC 571 : (2010) 2 SCC (Cri) 401] as adverted to hereinabove. Observing that although no inflexible guidelines can be laid down in this regard, it was highlighted that such an order cannot be passed as a matter of routine or merely because the party

3 (2016) 3 SCC 135

has levelled some allegations against the local police and can be invoked in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigation or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and for enforcing the fundamental rights.

79. The precedential ordainment against absolute prohibition for assignment of investigation to any impartial agency like CBI, submission of the charge-sheet by the normal investigating agency in law notwithstanding, albeit in an exceptional fact situation warranting such initiative, in order to secure a fair, honest and complete investigation and to consolidate the confidence of the victim(s) and the public in general in the justice administering mechanism, is thus unquestionably absolute and hallowed by time. Such a measure, however, can by no means be a matter of course or routine but has to be essentially adopted in order to live up to and effectuate the salutary objective of guaranteeing an independent and upright mechanism of justice dispensation without fear or favour, by treating all alike.

80. In the decisions cited on behalf of CBI as well, this Court in *K. Saravanan Karuppasamy* [*K. Saravanan Karuppasamy* v. *State of T.N.*, (2014) 10 SCC 406 : (2015) 1 SCC (Cri) 133] and *Sudipta Lenka* [*Sudipta Lenka* v. *State of Odisha*, (2014) 11 SCC 527 : (2014) 3 SCC (Cri) 428], recounted the above propositions underpinning the primacy of credibility and confidence in investigations and a need for complete justice and enforcement of fundamental rights judged on the touchstone of high public interest and the paramountcy of the rule of law."

13. It was argued by Mr. Rohatgi, learned senior counsel for the respondents that the appellants are not entitled to maintain these appeals as the present is the case where only an investigation has been directed. Mr. Aman Lekhi, learned senior counsel for the appellants would submit that the appellants' legal right to defend themselves at the preliminary stage also is well recognized and if they apprehend of them being unnecessarily involved in a criminal

prosecution, they are entitled to maintain this appeal to challenge the CBI investigation into the matter.

14. It is settled in the matter of **Union of India & Anr. vs. W.N. Chadha**[4]**,** that a prospective accused has no right to be heard at the stage of registration of FIR. Although the appellants have not succeeded in their challenge to the lodging of the FIR, having abandoned the challenge by withdrawing Crl. M.P No. 2642 of 2020 in the High Court, yet, we are referring to the principles so as to deal with the argument raised by Mr. Lekhi. The following is held in para 92:

> "**92.** More so, the accused has no right to have any say as regards the manner and method of investigation. Save under certain exceptions under the entire scheme of the Code, the accused has no participation as a matter of right during the course of the investigation of a case instituted on a police report till the investigation culminates in filing of a final report under Section 173(2) of the Code or in a proceeding instituted otherwise than on a police report till the process is issued under Section 204 of the Code, as the case may be. Even in cases where cognizance of an offence is taken on a complaint notwithstanding that the said offence is triable by a Magistrate or triable exclusively by the Court of Sessions, the accused has no right to have participation till the process is issued. In case the issue of process is postponed as contemplated under Section 202 of the Code, the accused may attend the subsequent inquiry but cannot participate. There are various judicial pronouncements to this effect, but we feel that it is not necessary to recapitulate those decisions. At the same time, we would like to point out that there are certain provisions under the Code empowering the Magistrate to give an opportunity of being heard under certain specified circumstances."

15. The principle laid down in **W.N. Chadha** (supra) has been reiterated in **Satishkumar Nyalchand Shah vs. State of Gujarat & Ors.**[5]**,** wherein the following has been held in para 10:

4 (1993) Supp. 4 SCC 260

5 (2020) 4 SCC 22

> "10. …….It is required to be noted that, as such, even the proposed accused Shri Bhaumik shall not have any say at this stage in an application under Section 173(8) CrPC for further investigation, as observed by this Court in W.N. Chadha [Union of India v. W.N. Chadha, 1993 Supp (4) SCC 260 : 1993 SCC (Cri) 1171] ; Narender G. Goel [Narender G. Goel v. State of Maharashtra, (2009) 6 SCC 65 : (2009) 2 SCC (Cri) 933] and Dinubhai Baghabhai Solanki [Dinubhai Baghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626 : (2014) 2 SCC (Cri) 384]. In Dinubhai Baghabhai Solanki [Dinubhai Baghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626 : (2014) 2 SCC (Cri) 384] after considering another decision of this Court in Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanandha Maharaj v. State of A.P. [Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanandha Maharaj v. State of A.P., (1999) 5 SCC 740 : 1999 SCC (Cri) 1047], it is observed and held that there is nothing in Section 173(8) CrPC to suggest that the court is obliged to hear the accused before any direction for further investigation is made. In Sri Bhagwan Samardha [Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanandha Maharaj v. State of A.P., (1999) 5 SCC 740 : 1999 SCC (Cri) 1047], this Court in para 11 held as under : (Sri Bhagwan Samardha case [Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanandha Maharaj v. State of A.P., (1999) 5 SCC 740 : 1999 SCC (Cri) 1047], SCC p. 743)
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> "11. In such a situation the power of the court to direct the police to conduct further investigation cannot have any inhibition. There is nothing in Section 173(8) to suggest that the court is obliged to hear the accused before any such direction is made. Casting of any such obligation on the court would only result in encumbering the court with the burden of searching for all the potential accused to be afforded with the opportunity of being heard. As the law does not require it, we would not burden the Magistrate with such an obligation."

16. Thus, the law settled on the above score answers the argument raised by Mr. Lekhi. Therefore, we are of the considered view that once an

FIR is registered and investigation has taken place, direction for an investigation by the CBI is not open to challenge by the prospective suspect or accused. The matter for entrusting investigation to a particular agency is basically at the discretion of the Court.

17. At this stage, it is profitable to refer to the observation made by this Court in the matter of **Mandakini Diwan & Anr. vs. High Court of Chhattisgarh & Ors.,**[6] wherein this Court directed for investigation by the CBI in a matter, like the present one, where at an earlier stage the police had filed a closure report treating it to be a case of suicide. The following has been held by this Court in paras 8, 20 & 21:

> "**8.** According to the appellants, the police filed the closure report treating it to be a case of suicide. The appellants repeatedly continued to represent to the authorities for a fair investigation after registering first information report. All the complaints made by the appellants to the authorities did not result in the registering of FIR against Respondent 7. All the complaints though were inquired into but were ultimately closed as a result of the influence exerted by Respondent 7. Till date, neither FIR has been registered on the several complaints made by the appellants nor a fair investigation has been carried out in order to find out the truth.
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> **20.** In Awungshi Chirmayo v. State (NCT of Delhi), this Court directed CBI to hold enquiry in the criminal matter related to murder of two cousins due to certain puzzling facts including inconclusive post-mortem report. It held as follows: (SCC pp. 572-73, paras 14-18)
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> > "14. In a seminal judgment reported as *State of W.B. v. Committee for Protection of Democratic Rights*, 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

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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: (SCC p. 602)

> '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. 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.'

15. 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 charge-sheet has been submitted by the prosecuting agency. In *Bharati Tamang v. Union of India*, 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 CBI which would be monitored by the Joint Director, CBI. The following observations were made in para 44: (SCC p. 601)

> '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 the 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.'

16. 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*.

17. 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.
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> 18. In view of the discussion made above, the order of the Delhi High Court dated 18-5-2018, 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 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 court concerned as expeditiously as possible."

> **21.** It is true that power to direct CBI to conduct investigation is to be exercised sparingly and such orders should not be passed in a routine manner. In the present case, the aggrieved party has raised allegations of bias and undue influence on the police machinery of the State of Chhattisgarh. Coupled with the fact that the thorough, fair and independent investigation needs to be carried out to find out the truth about the whole incident and in particular about the ante-mortem injuries. We are of the view that such a direction needs to be issued in the present case."

18. Reverting back to the facts of the present case, the deceased was closely associated with DKA, a member of Parliament and Chairman of Temple Sri Venkateswara Swamy Temple (Tirumala Tirupathi Devasthanam). The deceased, a close confidant of DKA, was a successful realtor and had huge assets in and around Bangalore. His mysterious death was preceded by execution of two different Wills,

one in favour of his wife/respondent no. 1 and the other in favour of respondent No. 12 which was registered after his controversial death. There are civil proceedings relating to mutation and declaration of title as well as the allegations concerning forgery of stamp papers. The learned Magistrate while directing further investigation and the High Court, under the impugned order, has highlighted the glaring defects in the investigation which we have avoided to reiterate so that it does not influence the CBI investigation. However, the fact remains that the truth surrendering the death of K. Raghunath needs to be settled after a complete and fair investigation by the CBI which, in the facts and circumstances of the present case, has rightly been directed by the High Court.

19. We, accordingly, affirm the order of the High Court and dismiss the appeals. The CBI shall conduct the investigation within a period of 08 months and the State of Karnataka shall render all possible assistance to the CBI to make a fair investigation into the crime. The entire papers shall be handed over by the concerned police to the CBI within 15 days. If the CBI proceeds to file chargesheet, the same shall be submitted before the jurisdictional CBI Court in the State of Karnataka.

Result of the case: Appeals dismissed.

†*Headnotes prepared by:* Divya Pandey