IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 1571-1572 OF 2017
(Arising out of Special Leave Petition (Crl.)No. 10120-10121 of 2016)

M.K. KUSHALAPPA AND ANR. ...Appellants

Versus

SRI K. J. GEORGE AND ORS. ...Respondents

O R D E R

1. This appeal arises from order dated 19th October, 2016 in Writ Appeal Nos. 3874-3875 of 2016 of the High Court of Karnataka at Bengaluru dismissing the writ petition of the appellants. The appellants are the father and son respectively of deceased M.K. Ganapathy, who was found dead on 7th July, 2016 in Vinayaka Lodge, Madikeri, Kodagu.

2. Deceased's son Master Nehal Ganapathy lodged a written complaint to the PSI of Kushalnagar police station on 10th July, 2016. But, since no action was taken, he filed a private complaint on which the Magistrate directed the Madikeri Town police station to register FIR. Accordingly, FIR No.89/2016 dated 19th July, 2016 was registered and after investigation 'B' Final Report was filed before the Court on 17th September, 2016. However, the FSL report was filed in Court only in April, 2017. It may be mentioned that investigation was handed over to the Criminal Investigation Department (CID) by the Director General

of Police on 3rd August, 2016. Protest petition filed by the complainant is pending consideration by the trial Magistrate.

3. The appellants filed a writ petition on 15th September, 2016 seeking direction to place the record of crime No.0089/2016 pertaining to unnatural death of late M.K. Ganapathy before the Central Bureau of Investigation (CBI) and for a direction to CBI to conduct free, fair and impartial investigation. According to the averments in the writ petition, the deceased was serving the Karnataka Police as Deputy Superintendent of Police. He was subjected to harassment by Respondent Nos. 1 to 3. Respondent No. 1 was at one time the Home Minister of the State and Respondent Nos. 2 and 3 were senior I.P.S. Officers. The deceased gave a statement in media about harassment meted out to him by the Respondent Nos. 1 to 3 in their official capacity. The said television interview was to be telecast at 8.00 p.m., but even before the telecast his dead body was found. Since police did not take action on the complaint of his son, a complaint was filed and FIR was registered. According to the appellants, the deceased could not have committed suicide and there was foul play in the incident. Respondent Nos. 1 to 3 were holding high offices in the Government of Karnataka and local investigation may not be fair.

4. The State of Karnataka and Respondent Nos. 1 to 3 opposed the prayer. It was submitted that the investigation already conducted was fair and there was no exceptional reason for investigation being

conducted by the CBI. It was also submitted that ingredients of Section 306 IPC are not made out as there was no abetment to suicide.

5. The High Court having dismissed the writ petition and the writ appeal, the appellants are before this Court.

6. Learned counsel for the appellants submitted that the appellants apprehend foul play and it could be a case of murder even though the complainants earlier learnt it to be a suicide. The true facts have not been properly investigated. The deceased, soon before his death, specifically named the three respondents from whom he apprehended danger to his life. The appellants, thus, had clear apprehension and suspicion that investigation by local police is denial of justice. Learned counsel for respondents supported the High Court view. It was submitted that the State police rightly concluded that it was a case of suicide because of depression as a result of family circumstances.

7. We have given due consideration to the rival submissions and perused the record. It is well settled that prayer for transfer of investigation from State to CBI can be allowed only in exceptional circumstances where investigation done by the State does not inspire confidence. There are no fixed parameters to determine such exceptional circumstances. A Constitutional court, taking an overall view of the fact situation of a particular case, may find it just and proper to direct CBI investigation, having regard to the consideration of

fair investigation. No doubt, directions for CBI investigation are not to be ordered just for the asking. Fairness to the accused and to the victim has to be carefully weighed.

8. Having considered the entirety of the material before this Court but without expressing any opinion on merits, we direct that investigation be handed over to the CBI. The CBI may complete the investigation, as far as possible, within three months from the date of receipt of a copy of the order. The investigation may be supervised by an officer of an appropriate rank, having regard to the nature of the present case. It will be open to the CBI to conduct investigation afresh or in continuation of the investigation already conducted. It will be open to the CBI to ascertain the nature of offence, if any, committed and by whom.

The appeals are disposed of accordingly.

A copy of this order, along with a set Paper Book, may be sent to Director, CBI for compliance of this order.

.....J.
[Adarsh Kumar Goel]

.....J.
[Uday Umesh Lalit]

NEW DELHI;
5TH SEPTEMBER, 2017.

ITEM NO.3 COURT NO.11 SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 10120-10121/2016

(Arising out of impugned final judgment and order dated 19-10-2016 in WA No. 3874/2016 & in WA No. 3875/2016 passed by the High Court of Karnataka at Bangalore)

M.K. KUSHALAPPA & ANR. Petitioner(s)

VERSUS

SRI K J GEORGE & ORS. Respondent(s)

(IA No.83244/2017-EXEMPTION FROM FILING O.T.)

Date : 05-09-2017 These petitions were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Mr. Jayant Bhushan, Sr. Adv.
Mr. Yatinder Chouhdry, Adv.
Mr. Kamlendra Mishra, AOR

For Respondent(s) Mr. Kapil Sibal, Sr. Adv.
Mr. A.S. Ponanna, AAG.
Mr. Joseph Aristotle S., AOR
Mrs. Priya Aristotle, Adv.
Mr. Ashish Yadav, Adv.
Ms. Romsha Raj, Adv.

Dr. A.M. Singhvi, Sr. Adv.
Mr. Sanchit Garga, Adv.
Ms. Seema Baingani, Adv.
Mr. Ajit Sharma, AOR

Mr. D. N. Goburdhan, AOR
Mr. Balendu Shekhar, Adv.

Mrs. Sonia Mathur, Adv.
Mr. Ashok Panigrahi, AOR
Mr. Abhishek, Adv.
Mr. Sushil Kumar Dubey, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeals are disposed of in terms of the signed order.

Pending applications, if any, shall also stand disposed of.

(SWETA DHYANI)
SENIOR PERSONAL ASSISTANT

(PARVEEN KUMARI PASRICHA)
BRANCH OFFICER

(Signed order is placed on the file)