

A.F.R.

Reserved

Court No. - 9

Case :- MISC. BENCH No. - 22997 of 2016

Petitioner :- Arti Gujar

Respondent :- State Of U.P. Thru. The Prin. Secy. Home And Anr.

Counsel for Petitioner :- Dr.Krishna Singh,Ashwani Kumar Agnihotri,Nishant Shukla

Counsel for Respondent :- Govt. Advocate,Rishad Murtaza,Vimal Kumar Srivastav

Hon'ble Devendra Kumar Upadhyaya,J.

Hon'ble Dinesh Kumar Singh,J.

(Per D.K. Upadhyaya, J.)

This petition, filed by the wife of a slain Inspector of U.P. Police, invokes jurisdiction of this Court under Article 226 of the Constitution of India seeking a direction to the Central Bureau of Investigation to conduct free, fair and impartial investigation of Case Crime No. 1081 of 2015, under Section 302 I.P.C., Police Station Kotwali City, District Pratapgarh. A further prayer has been made for issuing a writ in the nature of certiorari quashing the decision of the Government of India refusing to conduct the investigation of the aforesaid crime by the Central Bureau of Investigation despite the consent of the State Government accorded for investigation by the Central Bureau of Investigation as required under Section 6 of the Delhi Police Establishment Act, 1946.

The basis of the prayer for investigation by the Central Bureau of Investigation and the factual back-ground thereof have been laid in the writ petition by the petitioner, who has stated that her husband, late Anil Kumar was appointed on the post of Sub Inspector in the U.P. Police in the year 1999 and further that his work and conduct had always been appreciated by the

superior officers and it is for this reason that he was given out-turn promotion and was promoted as Inspector and had been made Incharge of various Police Stations in the State. It has also been stated that late Anil Kumar had also served under the Special Task Force.

The petitioner has also stated that late Anil Kumar was transferred from Kanpur Dehat to District Pratapgarh on 04.06.2015 and was made Incharge of Police Station City Kotwali, Pratapgarh and further that while being posted as Incharge Inspector at City Kotwali, Pratapgarh, pressure was exerted on him from certain corners to arrest the innocent persons in the locality and he was also threatened that in case he does not succumb to such pressures, he will face adverse consequences, however, the deceased with a view to serve the public, kept on discharging his duties without being influenced by pressures mounted on him despite receiving threatening calls and messages from certain influential persons.

The petitioner has also stated in the writ petition that on receiving such threatening calls, he not only informed his immediate superior i.e. Circle Officer concerned but also the Superintendent of Police, Pratapgarh that the threat perception was looming large at him and that if strict action is not taken against the persons extending threats to him, the same would result into some untoward incident. It has further been stated that since no heed was paid to the alarm raised by the deceased Anil Kumar, his apprehension proved true as he was murdered on 19.11.2015.

Further submission made in the writ petition is that the deceased Anil Kumar had telephonic conversations with his colleagues which reveal the threats under which he had been

living and in case he remained posted in district Pratapgarh, some harm would be caused to him because of the reason that certain influential persons close to the then ruling political party had a clout and these persons have been coercing him so far as the affairs in district Pratapgarh were concerned.

The petitioner in the writ petition has quoted one conversation which the deceased Anil Kumar had with one Parvez Alam on Whatsapp No. 9415909999. The conversation quoted in the writ petition is extracted herein below:

“Bhaiya kal mantri g apne letter pad per likhkar cm se mile the cm ne transfer ko likh diya hai ab aage letter pata hoga to batayenge ..please aap apne level se hi karwa do mujhe lagta hai ki raja bhaiya aage nahi letter jane de rahe hai”

“Bhai namaskar...aaj sp Pratapgarh ne mujhki bulaya tha kaha ki raja ke pro naraj hai aapka nukshan aage tak karenge matri g ke kehkar jo transfer fatehpur karwa rahe ho vo nahi ho payega agar ho bhi gaya to aapko raja relieve nahi hone denge yahi per rakhkar ulti dishi janche karwayenge aur nukshan karenge main bhi aapke transfer ke baad aapko relieve nahi kar paunga cm bhi kuch nahi kar payenge..mai jakar raja ke pro se milkar friendship karne ka prayash kiya hai av b ye log ya to mujhse galat kaam karwayenge ya fir mere sath koi ghatna karvayenge ...maine sp se kaha ki mujhe line hajir karke chutti de do to mana kar diya kaha ki mai kuch nahi kar paunga ye bhi kaha ki raja ka kaam karna hi padega cm bhi kuch nahi kar payenge is shajish me sabhi log शामिल hai. Help me pls.”

Mera transfer aapne nahi karvaya bhaiya

Aap kisi cheej ka prayas karte hain

Bhaiya. Mayawati g ki surakcha me posting karwa lu.”

The petitioner has further pleaded that for certain reasons, the deceased Anil Kumar was sent to the Police Lines and was placed under suspension and was even harassed to the extent that after being placed under suspension, he was forced to vacate the

Government premises allotted to him and was also forced to handover his service revolver.

The petitioner has further stated that the person responsible for the aforesaid action against the deceased Anil Kumar was the then Superintendent of Police, posted at Pratapgarh and further that a trap was laid by certain persons for eliminating Anil Kumar and that is why he was called to district Pratapgarh on the pretext of being reinstated in service after revocation of the suspension. It has further been stated in the writ petition that to execute the said design, a phone call was received by deceased Anil Kumar from the then Superintendent of Police, Pratapgarh that his suspension would be revoked and thereafter he would be relieved to be posted at some other place. It has further been stated that the deceased Anil Kumar could not visualize the motive behind sudden revocation of suspension and change of mind of District Police Chief i.e. Superintendent of Police, Pratapgarh. It has also been stated that immediately before Anil Kumar was murdered, he was investigating two most talked about murder cases of district Pratapgarh and authorities were aware of the fact that on account of hard work put in by the deceased, actual culprits were short-listed and it is only with a view to save the actual culprits of these two murder cases that deceased Anil Kumar was placed under suspension on frivolous charges.

After the incident, in which the husband of the petitioner Anil Kumar was murdered, a First Information Report under Section 302 I.P.C. was lodged on 19.11.2015 at 23.50 p.m. at Police Station Kotwali City, Pratapgarh. The post-mortem was conducted at District Hospital, Pratapgarh where cause of death was mentioned to be shock and hemorrhage due to ante-mortem

fire-arm injury.

In the First Information Report, it was stated that on 19.11.2015, at around 07.30 p.m. the deceased Anil Kumar had gone to meet the Manager of Vaishnavi Hotel and on hearing sound of firing, the deceased came down stairs and scolded the persons who were found firing and one of the two persons fired at the deceased which hit him in his chest and he died on the spot. The complainant, who lodged the First Information Report, is the brother of the deceased Anil Kumar and he has stated in the First Information Report that the deceased had told him that in district Pratapgarh he had been threatened for his life and that he may even be murdered.

Citing the instances of certain other murders which took place in district Pratapgarh, like the murder of Late Ziaul Haq, the then Circle Officer on 02.03.2013 and the murder of a business man, Mahadev Kesarwani on 10.06.2015, it has been stated by the petitioner in the writ petition that such incidents give rise to question as to who is the person responsible for murder of police officers and as to why the officers are not willing to serve the district Pratapgarh unless and until they have some link with high and mighty. The circumstances in which late Anil Kumar requested for his transfer from district Pratapgarh were also required to be probed. It has also been stated that when the deceased was at the verge of solving the murder case of Indra Mani Shukla, he was placed under suspension for no reason and this fact itself indicates involvement of high and mighty of district Pratapgarh and it is with the view to trap the deceased Anil Kumar in the design that he was asked to report to the Superintendent of Police, Pratapgarh on the pretext of being reinstated in service.

Further submission made in the writ petition is that at the time of occurrence which resulted in killing of deceased Anil Kumar at Hotel Vaishnavi, the Inspector, Bali Ram Mishra was also present with him and the question which looms large is as to why Inspector, Bali Ram Mishra did not fire on the culprit who was visible to him. Further submission is that the incident in which the deceased Anil Kumar was killed was widely reported in the Media wherein certain doubts have been expressed about involvement of the then Superintendent of Police, Pratapgarh and that deceased Anil Kumar was killed on account of conspiracy and that he was murdered for the reason that he was about to solve the mystery of murder of a lawyer, Indra Mani Shukla.

The investigation was conducted by the local police and two accused persons, namely, Bocha and Zeeshan were arrested and after conclusion of the investigation, a charge sheet has been filed against these two accused persons on 17.02.2016.

The petitioner made representations to the authorities and also represented to the National Scheduled Castes and Scheduled Tribes Commission stating therein that her husband, late Anil Kumar was pressurized to falsely rope in the innocent persons in crime and that since he refused to arrest one Manoj Tiwari, he started getting threats and further that the Superintendent of Police, Pratapgarh has been working under the pressure of certain influential persons. Various incidents have been narrated in the said representations annexed to the writ petitions, which point out to the pressure under which deceased Anil Kumar had been discharging his duties and the threats which were extended to him from various corners, including the District Chief of the Police i.e. Superintendent of Police, Pratapgarh.

The National Commission for Scheduled Castes in its letter dated 11.02.2016, addressed to the Principal Secretary (Home), Government of U.P., Lucknow had referred the request made by the petitioner to the State Government and had also required the Government to take decision on the prayer of the petitioner for getting the investigation conducted by the Central Bureau of Investigation. The State Government, vide its letter dated 14.01.2016 informed the National Commission for Scheduled Castes that the State Government, vide its letter dated 05.01.2016, had decided to get the investigation conducted by the Central Bureau of Investigation and had accordingly accorded its consent and further, has made a request to the Government of India in the Department of Personnel to do the needful.

Government of India took a decision regretting the request made by the State Government for investigation by Central Bureau of Investigation and accordingly, vide letter dated 09.06.2016, informed the State Government of the said decision. The decision reflected by the letter dated 09.06.2016 has been challenged by the petitioner subsequent to filing of the writ petition by amending the petition. In the said letter, it has been stated by the Government of India that the matter was examined by the Central Bureau of Investigation in order to see the feasibility of undertaking the investigation by the Central Bureau of Investigation and further that it was found that in the case at hand, two accused persons, namely, Bocha and Jeeshan were arrested and the firearm and motor-cycle used in commission of offence were recovered and seized. The letter further states that after completion of the investigation, a charge sheet dated 17.02.2016 has been filed against the aforesaid two accused persons before the court concerned. However, further

investigation of the case on certain points was continuing/pending. The letter dated 09.06.2016 also states that at the time of incident, the deceased Inspector Anil Kumar was under suspension and was reportedly staying in Vaishnavi Hotel, Pratapgarh where the incident took place on 19.11.2015 and further that the incident has been reported to be a “chance killing”. The letter of Government of India also states that there was no inter-state or international ramifications involved in this case and, thus, investigation of the case may not be taken up by the Central Bureau of Investigation.

In sum and substance, the petitioner has submitted that the incidents which preceded the murder of the deceased Anil Kumar were such that involvement of district police officials including the then Superintendent of Police, Pratapgarh and other politically high and mighty and influential persons in district Pratapgarh in the murder of late Anil Kumar cannot be ruled out and as such the facts of the case warrant investigation by the Central Bureau of Investigation.

The Central Bureau of Investigation has filed counter affidavit stating therein that the State of U.P. had requested the Government of India for investigation by Central Bureau of Investigation, vide letter dated 05.01.2016 mentioning therein the consent of the State of U.P. which was forwarded to the Director, Central Bureau of Investigation, New Delhi for furnishing comments regarding feasibility of undertaking the investigation. It has further been stated in the counter affidavit that after examination and scrutiny of the records and status of the investigation of the case, the Central Bureau of Investigation was of the view that the incident had been reported to be a “chance killing” and there does not seem to be any inter-state or

international ramifications involved in the case and accordingly, the Department of Personnel and Training, Government of India, New Delhi in consultation with the Central Bureau of Investigation has regretted the request of the State Government for C.B.I. investigation and the said decision of the Government of India has been communicated to the Chief Secretary of the State of U.P., vide letter dated 09.06.2016.

Thus, there are only two reasons disclosed by the Government of India as also by the Central Bureau of Investigation for declining to undertake C.B.I investigation and the reasons are (1) that the incident has been reported to be an incidence of “chance killing” and (2) that the case at hand does not involve any inter-state or international ramifications.

The State of U.P. has also filed a short counter affidavit stating therein, inter-alia, that after registration of the First Information Report, the investigation was entrusted to the Station House Officer of Police Station Kotwali Nagar and during the course of investigation, names of two persons, namely, Bocha @ Raju Soni, s/o Panchu Soni and Zeeshan, s/o Shahid Khan have come to light in commission of the crime and that offence under Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been added by the Investigation Officer. It has further been stated that after addition of the offence under Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the investigation of the case was entrusted to the Circle Officer, City, Pratapgarh who investigated the case in a fair and impartial manner and after collecting credible and incriminating evidence submitted a charge sheet dated 17.02.2016 which has been filed before the court below.

As observed above, by amending the writ petition, the decision of the Government of India as communicated, vide letter dated 09.06.2016 has been challenged, adding a prayer for issuing a writ of certiorari quashing the said decision of the Government of India.

The Central Bureau of Investigating has filed another counter affidavit sworn in on 17.08.2017 reiterating the stand taken in its earlier counter affidavit that the Central Bureau of Investigation was of the view that there did not seem any inter-state and international ramifications involved in the case and that it was a case of “chance killing” and hence the case may not be taken up by the Central Bureau of Investigation for investigation.

We have heard the learned counsel representing the respective parties and have also perused the record of the writ petition available before us.

Hon'ble Supreme Court in the case of **Pooja Pal vs. Union of India and others, reported in [(2016) 3 SCC 135]** referring to an earlier case of **Zahira Habibulla H. Sheikh vs. State of Gujarat, reported in [(2004) 4 SCC 158]** has observed that in a criminal case, fate of the proceedings cannot be left in the hands of the parties, crimes being public wrongs in breach and violation of public rights and duties, which affect the whole community and are harmful to the society.

Paras 54, 55, 57 and 58 of the judgment in the case of **Pooja Pal (supra)**, which enumerate guiding factors to determine the fate of a case like the present one, are extracted herein below:

“54. It was propounded in Zahira Habibulla case [(2004) 4 SCC 158] that in a criminal case, the fate of the proceedings cannot always be left entirely in the hands of the parties, crimes being public wrongs in breach and violation of public rights and duties, which affect the whole community and are harmful to the society

in general. That the concept of fair trial entails the triangulation of the interest of the accused, the victim, society and that the community acts through the state and the prosecuting agency was authoritatively stated. This Court observed that the interests of the society are not to be treated completely with disdain and as persona non grata. It was remarked as well that due administration of justice is always viewed as a continuous process, not confined to the determination of a particular case so much so that a court must cease to be a mute spectator and a mere recording machine but become a participant in the trial evincing intelligence and active interest and elicit all relevant materials necessary for reaching the correct conclusion, to find out the truth and administer justice with fairness and impartiality both to the parties and to the community.

55. In Zahira Habibulla case [(2004) 4 SCC 158] while highlighting the courts' overriding duty to maintain public confidence in the administration of justice, it was enunciated as well, that they cannot turn a blind eye to vexatious and oppressive conduct, discernable in relation to the proceedings. That the principles of rule of law and due process are closely linked with human rights protection, guaranteeing a fair trial, primarily aimed at ascertaining the truth, was stated. It was held as well, that the society at large and the victims or their family members and relatives have an inbuilt right to be dealt fairly in a criminal trial and the denial thereof is as much injustice to the accused as to the victim and the society."

57. It was underlined in Zahira Habibulla case that if ultimately the truth is to be arrived at, the eyes and ears of justice have to be protected so that the interest of justice do not get incapacitated in the sense of making the proceedings before the courts, mere mock trials. While elucidating that a court ought to exercise its powers under Section 311 of the Code and Section 165 of the Evidence Act judicially and with circumspection, it was held that such invocation ought to be only to subserve the cause of justice and the public interest by eliciting evidence in aid of a just decision and to uphold the truth. It was proclaimed that though justice is depicted to be blindfolded, it is only a veil not to see who the party before it is, while pronouncing judgment on the cause brought before it by enforcing the law and administer justice and not to ignore or turn the attention away from the truth of the cause or the lis before it, in disregard of its duty to prevent miscarriage of justice. That any indifference, inaction or lethargy displayed in protecting the right of an ordinary citizen, more particularly when a grievance is expressed against the mighty administration, would erode the public faith in the judicial system was underlined. It was highlighted that the courts exist to do justice to the persons who are affected and therefore they cannot afford to get swayed by the abstract technicalities and close their eyes to the factors which need to be positively probed and noticed. The following statement in Jennison vs. Baker, (1972) 1 All ER 997 (CA) was recalled: (QB p.66)

'.....The law should not be seen to sit by limply, while those who defy it go free, and those who seek its protection lose hope.'

58. It was declared in Zahira Habibulla case that the courts have to ensure that the accused persons are punished and that the might

or the authority of the state is not used to shield themselves and their men and it should be ensured that they do not wield such powers, which under the Constitution has to be held only in trust for the public and society at large. That if any deficiency in investigation or prosecution is visible or can be perceived by lifting the veil covering such deficiency, the courts have to deal with the same with an iron hand appropriately within the framework of law was underlined.”

Para 64 of the judgment in the case of **Pooja Pal (supra)** is also relevant for determining as to whether the prayer made in this case is to be granted or not, which runs as under:

“64. The content and scope of the power under Article 226 of the Constitution of India to direct investigation by the CBI in a cognizable offence, alleged to have taken place within the territorial jurisdiction of the State, without the consent of the State Government fell for scrutiny of this Court in Committee for Protection of Democratic Rights. While examining the issue in the context of the power of judicial review as embedded in the constitutional scheme, it was held that no Act of Parliament could exclude or curtail the powers of the constitutional courts in that regard. Reiterating, that the power of judicial review, is an integral part of the basic structure of the Constitution, it was underlined that the same was essential to give a pragmatic content to the objectives of the Constitution embodied in Part III and other parts thereof. In elaboration, it was held that Article 21 of the Constitution not only takes within its fold, the enforcement of the rights of the accused but also the rights of the victim. It was predicated that the State has a duty to enforce the human rights of the citizens providing for fair and impartial investigation, against any person accused of commission of any cognizable offence.”

Referring to yet another celebrated judgment of Hon'ble Supreme Court in the case of **State of West Bengal vs. Committee for Protection of Democratic Rights**, reported in [(2010) 3 SCC 571], Hon'ble Supreme Court in the case of **Pooja Pal (supra)** has dealt with the scope of the jurisdiction of the constitutional courts under Articles 32 and 226 of the Constitution of India in a matter involving a prayer for issuing a direction to the Central Bureau of Investigation to conduct investigation of a crime. Para 75 of the judgment in the case of **Pooja Pal (supra)** is extracted herein below:

“75. That the extra-ordinary power of the constitutional courts under Articles 32 and 226 of the Constitution of India qua the issuance of direction to the CBI to conduct investigation must be

exercised with great caution was underlined in Committee for Protection of Democratic Rights 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 has 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 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.”

What is of utmost importance is the primacy of credibility of and confidence in an investigation and a need for complete justice. Hon'ble Supreme Court in para 81 of the judgment in the case of **Pooja Pal (supra)** has held that assignment of further investigation or reinvestigation to the Central Bureau of Investigation is contingent on the factual setting involved in a case. In this regard para 81 of the said judgment in the case of **Pooja Pal (supra)** may be referred to, which is extracted herein below:

“81. The judicially propounded propositions on the aspects of essentiality and justifiability for assignment of further investigation or reinvestigation to an independent investigating agency like the CBI, whether or not the probe into a criminal offence by the local/state police is pending or completed, irrespective of as well, the pendency of the resultant trial have concretized over the years, applicability whereof, however, is contingent on the factual setting involved and the desideratum for vigilant, sensitised and even-handed justice to the parties.”

Para 88 of the judgment in the case of **Pooja Pal (supra)** is also relevant for determination of the issue involved herein, which is extracted herein below:

“88. The expression “fair and proper investigation” in criminal jurisprudence was held by this Court in Vinay Tyagi vs. Irshad Ali (2013) 5 SCC 762 to encompass two imperatives; firstly the investigation must be unbiased, honest, just and in accordance with law and secondly, the entire emphasis has to be to bring out the truth of the case before the court of competent jurisdiction.”

Highlighting the purpose of a criminal investigation and its efficacious prospects, Hon'ble Supreme Court in para 96 in the case of **Pooja Pal (supra)** has observed as under:

“96. The avowed purpose of a criminal investigation and its efficacious prospects with the advent of scientific and technical advancements have been candidly synopsized in the prefatory chapter dealing with the history of criminal investigation in the treatise on Criminal Investigation – Basic Perspectives by Paul B. Weston and Renneth M. Wells:

“Criminal investigation is a lawful search for people and things useful in reconstructing the circumstances of an illegal act or omission and the mental state accompanying it. It is probing from the known to the unknown, backward in time, and its goal is to determine truth as far as it can be discovered in any post-factum inquiry.

Successful investigations are based on fidelity, accuracy, and sincerity in lawfully searching for the true facts of an event under investigation and on an equal faithfulness, exactness, and probity in reporting the results of an investigation. Modern investigators are persons who stick to the truth and are absolutely clear about the time and place of an event and the measurable aspects of evidence. They work throughout their investigation fully recognizing that even a minor contradiction or error may destroy confidence in their investigation.

The joining of science with traditional criminal investigation techniques offers new horizons of efficiency in criminal investigation. New perspectives in investigation bypass reliance upon informers and custodial interrogation and concentrate upon a skilled scanning of the crime scene for physical evidence and a search for as many witnesses as possible. Mute evidence tells its own story in court, either by its own demonstrativeness or through the testimony of an expert witness involved in its scientific testing. Such evidence may serve in lieu of, or as corroboration of, testimonial evidence of witnesses found and interviewed by police in an extension of their responsibility to seek out the truth of all the circumstances of crime happening. An increasing certainty in solving crimes is possible and will contribute to the major deterrent of crime – the certainty that a criminal will be discovered, arrested and convicted.”

It is well known principle of law that justice should not only be done but it also must appear to have been done for the reason that it is the cause of justice, which is supreme. In a case, like the present one, court's satisfaction that investigation under question is not proper, effective and impartial is the condition precedent for exercising jurisdiction under Article 226 for granting a prayer for investigating a reported crime by the Central Bureau of Investigation. The facts available on record and the attending circumstances need to be evaluated and

analyzed to decide as to whether further investigation or reinvestigation to unearth the truth is warranted in a given case or not.

Facts of the instant case, as can be culled out from the pleadings available on record, are that from the very inception of the investigation, the petitioner has been apprehensive of the investigation being conducted by the Uttar Pradesh Police for the reason that the petitioner has been expressing her concerns about involvement of high, mighty and politically influential persons in the district of Pratapgarh and also has been apprehensive of involvement of the district police, including the Chief of District Police, Pratapgarh i.e. Superintendent of Police. The petitioner has unambiguously narrated certain incidents, which immediately preceded murder of her husband and has also extracted whatsapp conversation between the deceased and his friend which throw some light on the stressful conditions in which the deceased had been discharging his duties as Incharge Inspector of Police Station-Kotwali City, District-Pratapgarh. In a case where the husband of the petitioner has lost his life and apprehensions have been expressed by the petitioner about the involvement of the local police, including its District Chief, any investigation conducted by the local police will be bereft of having the potential of instilling faith and trust in the petitioner qua investigation of the crime in a fair, impartial and uninfluenced manner. In these circumstances, it becomes the duty of the Court to ensure that credential of the investigation does not get eroded and that the purposeful and effective investigation is conducted to repel any apprehension of biased or influenced investigation from the mind of the petitioner, who is directly affected, being wife of the deceased.

We have examined the facts of the case and the attending

circumstances. We have no hesitation to hold that notwithstanding the fact that charge-sheet has been filed in the case, it is necessary to rule out any possibility of denial of justice to the parties and to instill and sustain confidence of the society at large as regards investigation of murder of the husband of the petitioner, the Central Bureau of Investigation ought to be directed to undertake the investigation of the crime. In the facts and circumstances of the case and also taking into consideration the law laid down and the parameters set out by Hon'ble Supreme Court in the case of **Pooja Pal (supra)** in relation to a prayer for C.B.I. investigation, we have no doubt in our mind that it is a case where investigation should be entrusted to the Central Bureau of Investigation.

Coming to the reasons indicated by the Government of India as embodied in its letter dated 09.06.2016 for refusing to undertake the investigation by the Central Bureau of Investigation, we may observe that having regard to the overall facts and circumstances of the case, the reasons indicated in the impugned decision are not tenable. The Government of India has given two reasons, (i) that it appears to be a case of "chance killing" and; (ii) that the case does not have any inter-state or international ramifications.

So far as the first reason is concerned, looking to the facts narrated by the petitioner about the suspension of the deceased, communication by the Superintendent of Police to the deceased about intended revocation of suspension, likely result of investigation of two murder cases, which were being conducted by the deceased and other such circumstances, the possibility of it being a case of premeditated murder, cannot be ruled out and therefore this reason, in our considered opinion, is not sustainable.

As regards the other reason recited in the communication dated 09.06.2016 by the Government of India refusing to undertake C.B.I. investigation that the case does not have any inter-state or international ramifications, we may observe that the C.B.I. can be entrusted investigation of a crime even if a case does not have such ramifications. The decision for C.B.I. investigation has to be taken depending on the attending facts and circumstances and also to eliminate the element of any bias or influence.

We are, thus, unable to persuade ourselves to agree with the reasons indicated by the Government of India regretting that C.B.I. investigation in this case cannot be undertaken.

For the reasons given above, the writ petition deserves to be allowed.

Resultantly, the writ petition is **allowed**. The decision of the Government of India as contained in the communication dated 09.06.2016 is hereby quashed.

The Central Bureau of Investigation is directed to conduct the investigation of Case Crime No.1081 of 2015, lodged at Police Station-Kotwali City, District-Pratapgarh, under section 302 of I.P.C. and file a report before the learned court below.

We further direct that after conclusion of investigation, the report which may be filed by the C.B.I., will be considered by the learned court below as per law and till the report by the C.B.I. is filed under the directions of this Court in this order, the learned court below shall not proceed with the trial.

We are also aware of the constraints and paucity of manpower available with the Central Bureau of Investigation, however, we have directed the C.B.I. to undertake the investigation in this case looking to the overall facts and circumstances and with a view to instill trust in the petitioner and

to allay any apprehension from her mind and to ensure impartial and fair probe in the case.

There will be no order as to costs.

Order Date :- May 23, 2018

Sanjay/Akhilesh