

ITEM NO.26

Court 4 (Video Conferencing)

SECTION X

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition (Criminal) No.436/2021

MEENAKSHI GUPTA

Petitioner(s)

VERSUS

STATE OF UTTAR PRADESH & ORS.

Respondent(s)

Date : 12-11-2021 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD  
HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s)

Dr. Amit George, Adv.  
Mr. Anand Shankar, AOR  
Mr. K.K. Shukla, Adv.  
Mr. Debashis Mukherjee, Adv.  
Mr. Kartickay Mathur, Adv.  
Mr. Rayadurgam Bharat, Adv.

Ms. Meenakshi Gupta, Petitioner-in-person

For Respondent(s)

Mr. Tushar Mehta, SG  
Mr. Vinod Diwakar, AAG  
Ms. Alka Sinha, Adv.  
Mr. Anuvrat Sharma, Adv.

Mr. Arvind Kumar Sharma, AOR

UPON hearing the counsel the Court made the following  
O R D E R

- 1 The jurisdiction of this Court under Article 32 of the Constitution has been invoked by the petitioner for seeking two reliefs:

- (i) A transfer of the investigation pertaining to the homicidal death of the petitioner's husband, Manish Gupta, which is alleged to have taken place on the night intervening 27/28 September 2021 at Krishna Palace Hotel, Gorakhpur, Uttar Pradesh to the Central Bureau of Investigation; and
- (ii) A direction that the trial, after the completion of the investigation, should be conducted before the CBI Court at Delhi.

- 2 The petitioner has alleged that in the last week of September 2021, the deceased had checked into the above hotel at Gorakhpur, when certain police officials attached to PS Ramgarh Taal brutally assaulted him resulting in his death.
- 3 FIR No 391/2021 for an offence punishable under Section 302 of the Indian Penal Code 1860 was registered on 29 September 2021. The petitioner submitted a request to the State Government to hand over the investigation to the CBI. She states that a statement was made by the Chief Minister of Uttar Pradesh in the course of a press conference, agreeing to do so. In the interregnum, a Special Investigation Team (SIT) based out of Kanpur was constituted to investigate into the matter until such time as the investigation was taken over by the CBI.
- 4 This Court was moved in the jurisdiction under Article 32 on the ground that in spite of the passage of three weeks, the CBI did not assume charge of the investigation.
- 5 Notice was issued on the petition on 12 November 2021. Mr Tushar Mehta, Solicitor General has appeared on behalf of the State of Uttar Pradesh.
- 6 According to the affidavit filed by the Special Secretary in the Home department of the Government of Uttar Pradesh, the State Government took

a decision to get the investigation carried out through an SIT until orders were issued by the Union government for the conduct of the investigation by the CBI. Hence, the Director General of Police, UP ordered an investigation by the SIT at Kanpur. The affidavit records that the unnamed accused were identified as Sub-Inspector Rahul Dubey, Head Constable Kamlesh Yadav and Constable Prashant Kumar and their names were included in the FIR connected with Case Crime No 391/2021. It has been stated that at present six accused, namely, SHO Jagat Narayan Singh, SI Akshay Mishra, SI Vijay Yadav, SI Rahul Dubey, Head Constable Kamlesh Yadav and Constable Prashant Kumar have been arrested and are lodged at the District Jail, Gorakhpur.

- 7 On 1 October 2021, the Additional Chief Secretary, Department of Home forwarded a communication to the Secretary, Ministry of Personnel, Public Complaints and Pension, Government of India to get the investigation of Case Crime No 391/2021 conducted through the Central Bureau of Investigation under Section 6 of the Delhi Special Police Establishment Act 1946. A notification was issued by the Union government on 22 October 2021, in pursuance of which the CBI has registered FIR No RC0532021S0012, at PS SCB, District Lucknow, Uttar Pradesh. In paragraph F of the preliminary submissions in the above affidavit, it has been stated thus:

“That... the trial of the case would be conducted before the concerned CBI Court having requisite jurisdiction before which the police report under Section 173(2) Cr.P.C. will be filed after investigation by the CBI. Be that as it may, it is respectfully submitted that the State of UP has no objections if the trial is conducted at Delhi or any other place which this Hon’ble Court may deem appropriate.”

- 8 Since the investigation has been transferred to the CBI at the behest of the Government of Uttar Pradesh, the first relief which has been sought in these

proceedings has been duly fulfilled. As regards the transfer of the case for trial before the CBI Court at Delhi, the state government has informed this Court that the investigating agency shall file the police report under Section 173(2) after completion of the investigation before the competent court and that the State has no objection if the trial is conducted at Delhi or any other place.

- 9 In the present case having regard to the concession which has been made on behalf of the Government of Uttar Pradesh and having due regard to the facts of this case, we order and direct that upon the completion of the investigation and the submission of the final report under Section 173(2), the trial shall be conducted by the CBI Court at Delhi.
- 10 The Petition shall accordingly stand disposed of.
- 11 Pending applications, if any, stand disposed of.

**(CHETAN KUMAR)**  
**A.R. - cum - P.S.**

**(SAROJ KUMARI GAUR)**  
**Court Master**