



2026:AHC:213872-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 15771 of 2023

Madhu Dubey

.....Petitioner(s)

Versus

State Of U.P. And 5 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Arya Suman Pandey, Vikash Kumar
Counsel for Respondent(s)	: Rahul Srivastava, A.S.G.I., G.A., Raghuvansh Misra, Rajesh Pratap Singh, Sanjay Kumar Yadav, Suneel Thekma

Court No. - 47

HON'BLE RAJEEV MISRA, J.

HON'BLE DR. AJAY KUMAR-II, J.

1. Heard Mr. Saurabh Tiwari, the learned counsel for petitioner, the learned AGA for State- respondents 1 to 6, Mr. Raghuvansh Misra, the learned counsel for respondent -7 and Mr. Rajesh Pratap Singh, the learned counsel for respondent -8

2. Perused the record.

3. Petitioner, Madhu Dubey, has approached this Court by means of present Criminal Misc. Writ Petition with the following prayer:-

"(i) Issue a writ, order or direction in the nature of mandamus commanding and directing the Central Bureau of Investigation (CBI) i.e. respondent no. 3 to take over the Case Crime No. (FIR No.) 131 of 2023, dated 27.03.2023 registered with police station Sarnath, District Varanasi for further investigation or re-investigation.

(ii) Issue a writ, order or direction in the nature of mandamus commanding and directing the concerned respondent authorities to immediately hand over all the records pertaining to investigation of Case Crime No. (FIR No.) 131 of 2023, dated 27.03.2023 registered with police station Sarnath, District Varanasi to respondent no. 3 (CBI) for further investigation or re-investigation.

(iii) Issue any such other and further suitable writ, order or direction, which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case, so that justice be done.

(iv) Award the costs of the writ petition to the petitioner."

4. On the matter being taken up, Mr. Raghuvansh Misra, the learned counsel for respondent -7 submits that investigating officer upon completion of statutory investigation of Case Crime No. 131 of 2023, under Section 306 IPC, P.S. Sarnath, District Varanasi, has already submitted charge-sheet dated 03.06.2023, upon which cognizance has also been taken by the jurisdictional Magistrate vide cognizance taking order dated 06.06.2023. He, therefore, submits that in view of above, prayer prayed for by means of present writ petition is misconceived and therefore the present writ petition is liable to be dismissed.

5. When confronted with above, the learned counsel for petitioner raised hue and cry with regard to the manner in which the crime was committed. It was urged by the learned counsel for petitioner that since spermatozoa was found in the private part of the prosecutrix, which, on medical examination / forensic examination matched with accused, therefore, the death of deceased is not suicidal but homicidal.

6. At this stage we confronted the learned counsel for petitioner as to whether any protest petition was filed against post mortem report submitted by autopsy surgeon before District Magistrate for re-medical examination of the body of deceased, the learned counsel for petitioner fairly conceded that no such objection was filed. There is another fallacy in the argument raised by learned counsel for petitioner. The charge-sheet has been submitted under Section 306 IPC, meaning thereby the accused is guilty of having abetted, instigated or conspired in the commission of crime in question. We further confronted the learned counsel for petitioner as to whether any protest petition was filed against the charge-sheet/ police report submitted by investigating officer before the jurisdictional Magistrate in the light of law laid down by Apex Court in **Bhagwant Singh vs. Commissioner of Police and another, (1985) 2 SCC 537**, the learned counsel for petitioner fairly submits that no such

protest petition was filed against the police report/ charge-sheet.

7. In view of above, we are of the considered opinion that all the arguments raised in the present writ petition in support of the submission that death of deceased is homicidal and not suicidal, are wholly misconceived as in absence of corpus of deceased, no further investigation in the manner of occurrence or cause of death can be conducted.

8. As a result, present writ petition is liable to be consigned to record.

9. It is accordingly consigned to record.

(Dr. Ajay Kumar-II,J.) (Rajeev Misra,J.)

October 12, 2026

Dhirendra/