

Court No. - 2

WWW.LIVELAW.IN

Case :- P.I.L. CIVIL No. - 16150 of 2020

Petitioner :- Suo-Moto Inre: Right To Decent & Dignified Last Rites/Cremat

Respondent :- State Of U.P. Thru Additional Chief Secretary, Home And Ors.

Counsel for Petitioner :- Abhinav Bhattacharya, Ajit Singh, Anjani Kumar Mishra, Ashish Kumar Agarwal, Atul K. Singh, Atul Kumar Singh, Digvijay Singh Yadav, Jaideep Narain Mathur (Ac), Nadeem Murtaza, Onkar Singh, Pradeep Kumar Singh, Seema Kushwaha, Sharad Bhatnagar

Counsel for Respondent :- C.S.C., Ashok Shukla, Dr. Ravi Kumar Mishra, Manjusha, Satyaveer Singh

Hon'ble Rajan Roy, J.

Hon'ble Jaspreet Singh, J.

Ref: C.M.A. No. 46883 of 2021

Heard Shri Jaideep Narain Mathur, learned Senior Counsel assisted by Shri Abhinav Bhattacharya, learned amicus curie and Shri Anurag Singh, learned counsel for C.B.I., Shri Sharad Bhatnagar and Ms. Seema Kushwaha along with Sri Pradeep Kumar Singh, Sri Digvijay Singh Yadav, Sri Ajeet Singh and Sri Hemant Kumar learned counsel for victim's family as well as Miss Akansha Dubey holding brief of Shri S.B. Pande.

In pursuance to our order dated 19.03.2021, the District Judge, Hathras has conducted a detailed inquiry and has submitted a report in a sealed cover so has the Inspector General, Central Sector, C.R.P.F. Lucknow. The report of the District Judge is dated 02.04.2021. He has submitted a report after recording the statements of sixteen (16) persons, including Ms. Seema Kushwaha, Advocate and the victim's brother and mother, who were present at the time of the incident alleged in the affidavit of the victim's brother, and seeing the CCTV Footage and records. The Presiding Officer's statement/report has also been taken into account as also the CCTV Footage. The report is accompanied by statements of the concerned persons recorded by the District Judge, Hathras. The report of the District Judge, Hathras is also accompanied by the report of the Presiding

Officer of the Court where trial is being concluded.

Likewise the report submitted by the Inspector General, Central Sector, C.R.P.F. Lucknow is accompanied by the statement/report of the Commandant 239 Battalion Manmohan Singh, Assistant Sub Inspector Chandra Shekhar Bhatt, Hawaldar Bilas Rao Patil and Constable Idhate Sunil.

Having perused both the reports and the statements/reports annexed therewith, without mentioning the details contained therein considering the sensitive nature of the case, as was also requested by learned Amicus Curiae who was permitted by us to go through the reports, suffice it to say, as of now, we do not find any reason to stay the proceedings in Session Trial No. 538 of 2020 (Case Crime No. 0005 of 2020) pending before the Special Court (SC/ST Act), Hathras nor for that matter to transfer the same elsewhere, which, though not specifically prayed in the application/affidavit, was requested orally during arguments on the earlier date on the grounds/allegations mentioned in the affidavit in support of the application for interim directions dated 19.03.2021 filed on behalf of the victim's family members through Sri Sharad Bhatnagar, Advocate.

We specifically asked Ms. Seema Kushwaha, if she wanted details of the report to be recorded in the order but she stated in the negative.

We, however, make it clear that our observations/directions as contained in our order dated 19.03.2021 for providing requisite security as also with regard to non-disruption of the trial by any person and the consequences which will follow on such disruption etc., for facilitating a free and fair trial, stand as it is, and they shall be implemented and complied by the concerned strictly.

On the last date as also today Sri Anurag Singh, learned counsel for the C.B.I. submitted that the CBI proposes to file an application for transfer of the trial but till date it has not been filed, therefore, this order would be without prejudice to any application for transfer of trial which may be filed by the C.B.I., if it is otherwise maintainable.

The two reports referred above are ordered to be put back in

sealed cover and to be kept on record.

The said application bearing C.M.A. No. 46883 of 2021 stands **disposed of**.

The main matter shall now come up on **16.09.2021**.

Office is directed to print the name of Sri Pranjal Krishna, as counsel for the contesting opposite party, whenever the case is next listed.

(Jaspreet Singh, J.) (Rajan Roy, J.)

Order Date :- 26.8.2021/Asheesh