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IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION
WRIT PETITION (CRIMINAL) NO. OF 2020
(Under Article 32 of the Constitution of India)

IN THE MATTER OF:

1. Arjun Singh

PETITIONER

VERSUS

1. State of West Bengal,
through the Secretary,
Department of Home, "Nabanna",
325; Sarat Chatterjee Road,
Howrah - 711102

RESPONDENT NO. 1

2. All India Trinamool Congress, *The General Secretary,*
Trinamool Bhavan,
36G Topsia Road,
Kolkata- 700039

RESPONDENT NO. 2

3. Department of Home,
Through the Secretary
Government of West Bengal
"Nabanna",

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325, Sarat Chatterjee Road,
Howrah - 711102

RESPONDENT NO. 3

4. Director General of Police,
West Bengal Police,
Bhabani Bhaban,
31 Belvedere Road, Alipore,
Kolkata -700 027

RESPONDENT NO. 4

5. Union of India,
through Secretary,
Ministry of Home Affairs, North Block,
New Delhi-110001

RESPONDENT NO. 5

6. Central Bureau of Investigation, *Thy. The Director,*
CGO Complex, 2nd Avenue,
DF Block, Sector 1, Bidhannagar,
Kolkata - 700064

RESPONDENT NO. 6

ALL ARE CONTESTING RESPONDENTS
PARTIES ARE SAME AS BEFORE THE HON'BLE HIGH COURT

WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA

To,

The Hon'ble Chief Justice of India

and his companion Justices of the Supreme Court of India.

The humble Petition of the Petitioner above named.

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MOST RESPECTFULLY SHOWETH:

1. That the instant Writ Petition has been filed by the Petitioner seeking an order, direction or writ in the nature of Mandamus directing the transfer of investigation of all cases enlisted in Annexure-P/1 annexed to the instant Petition to an investigative agency not within the control of the Respondent Nos. 1 to 3, in as much as the criminal proceedings instituted against the Petitioner are manifestly attended with mala fides and has been maliciously instituted at the instance of the Respondent Nos. 2 with an ulterior motive of wrecking vengeance on the Petitioner and with a view to spite him due to political grudge and to harass him. That after severing his association with TMC in March 2019, in a short span of One and half years the Petitioner has been falsely implicated in a total of 64 criminal cases lodged in various places in the State of West Bengal and a vilification campaign has commenced against him in order to unleash political vendetta and the impugned frivolous criminal cases have been initiated to abuse the process of criminal law.
2. That the Petitioner herein/Arjun Singh, is facing victimization at the hands of the ruling party being All India Trinamool

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Congress/Respondent No. 2, in the State of West Bengal/Respondent No. 1 herein.

3. The Respondent No. 1 is the State of West Bengal. That Respondent No. 2 is All India Trinamool Congress, Respondent No. 3 is the Department of Home, Government of West Bengal which is responsible for maintaining law and order in the State of West Bengal. Respondent No. 4 is the Director General of Police, West Bengal, Respondent No. 5 is the Union of India and Respondent No. 6 is the Central Bureau of Investigation. The acts and omissions of the Respondent nos. 1-~~4~~ have infringed the Fundamental Rights and other constitutional rights of the Petitioner and as such Respondents are amenable to the exercise of the writ jurisdiction of this Hon'ble Court under Article 32 of the Constitution of India.
4. The facts and circumstances leading to the filing of the instant Petition are as under:
 - a. That the Petitioner/Arjun Singh, is an Indian politician and a Member of Parliament in the 17th Lok Sabha from Barrackpore Lok Sabha constituency in West Bengal. He contested the 2019 Indian general election as a BJP candidate and won. Previously, the Petitioner had also

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won Bhatpara assembly seat consecutive four times since 2001 as a Trinamool Congress candidate. He has also been appointed as one of the twelve Vice-Presidents of the West Bengal Unit of BJP on 01.06.2020.

- b. That around 64 criminal cases have been initiated against the Petitioner, immediately upon him leaving the membership of the All India Trinamool Congress in March, 2019, to join the Bhartiya Janta Party, which is a glaring example as to how the State Machineries and the criminal justice system are being misused in furtherance of the political vendetta that the political party/Respondent No.: 2 has against the Petitioner. True copy of the tabulated chart enlisting the cases initiated against the Petitioner since March, 2019, is annexed herewith and marked as ANNEXURE-P/1 (Pgs. ^{4A} To 51).
- c. The majority of cases have been lodged by AITC Leaders with vague allegations against the Petitioner to say the least at least a preliminary enquiry before lodging the said FIR should have been undertaken. There are several cases in relation to the same cause of action. That with a view to only multiply the number of criminal cases against the Petitioner multiple

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FIRs have been lodged in relation to the same cause of action. The allegations of few FIRs are improbable. It is submitted that there are certain FIRs lodged without any cause of action. That the Police has also lodged the FIR on same cause of action and purposely excluded the supporters/hoodlums of AITC.

- d. It is submitted that no stone has been left unturned by the Respondent No. 2 by making use of the State Machinery and the State Police to harass the Petitioner. It is submitted that the Barrackpore Police tried to arrest him before Counting Day of the 2019 Indian general election. In view the same, the Petitioner preferred a Special Leave Petition before this Hon'ble Court being Writ Petition (Criminal) Diary No. (S). 19284/2019, thereby praying for necessary reliefs against such malicious and purposive prosecutions initiated at the instant of the ruling political party of the State of West Bengal. That on 22.05.2019, this Hon'ble Court was pleased to grant insulation to the Petitioner to the effect that no coercive action shall be taken against him in cases which have been registered against him so far and in which his arrest is required for the period specified therein. True copy

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of the order dated 22.05.2019 passed by this Hon'ble Court in Writ Petition (Criminal) Diary No. (S). 19284/2019 is annexed herewith and marked as ANNEXURE-P/2 (Pgs ⁵² To ⁵³).

- e. That thereafter, Petitioner's house was also attacked with bombs and his car was also damaged by a TMC worker who threw stones, bombs and bricks. The Petitioner's son also had to face attacks on his car. That even after the elections, the violence against Petitioner continued. His residence was attacked with seven rounds of fire and two bombs were hurled near his office and residence.
- f. That on 01.09.2019, the Petitioner sustained a head injury by the Commissioner of Police, Barrackpore Commissionerate during a clash between BJP and TMC supporters over control of party-office at Shyamnagar, which is under Jagatdal assembly constituency. The petitioner complained about such incident to the police who refused to lodge an FIR. Being aggrieved the petitioner filed an application under section 156(3) of CrPC which was rejected by Learned ACJM. Being aggrieved by such passed by order by Learned ACJM, the petitioner preferred an Appeal before the Hon'ble High

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Court at Calcutta, being C.R.R. No. 3216 of 2019, which is still pending adjudication. His car was also vandalised by TMC cadres. That on 05.07.2020, once again Petitioner's car was Vandalised by the TMC Cadres at Halisahar while he was present in house of a BJP karyakarta.

- g. That the Respondent No. 2 with a view to vent its political vendetta has initiated false and frivolous cases against political leaders whose political allegiance and ideologies is different from theirs. That since the Petitioner changed his political allegiance, he has been saddled with number of criminal prosecutions at the instance of ruling dispensation of the State of West Bengal out of sheer political vendetta. Further, the State machinery in clear derogation of their solemn duty and responsibility as enshrined under the law of the land engaged themselves in creating undue pressure upon the Petitioner by abusing the process of law for compelling the Petitioner to succumb to their unbridled envy.
- h. The mode and manner in which the State machinery has engaged in purposive prosecution against the Petitioner one after another as also curtailing his liberty without due

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process of law clearly establishes the dreadful and vindictive attitude of the State machinery which is required to be curbed with strict hands by this Hon'ble Court.

- i. That another political person namely, Bharati Ghosh, has similarly been victimized and unduly harassed at the instance of the ruling political party of the State of West Bengal. She was also saddled with number of false criminal cases out of sheer political vendetta due to change of her political allegiance. That Bharati Ghosh preferred a Special Leave Petition before this Hon'ble Court being Writ Petition (Criminal) No. (S). 254/2018, thereby praying for necessary reliefs against such malicious and purposive prosecutions initiated at the instance of the ruling political party of the State of West Bengal. That in the said petition, this Hon'ble Court vide interim order directed that no coercive steps be taken against her in connection with any of the cases mentioned therein. True copy of the orders passed by this Hon'ble Court in Writ Petition (Criminal) No. (S). 254/2018 dated 1.10.2018, 12.7.2019, 4.11.2019, 19.2.2019, 3.5.2019 is annexed herewith and marked as ANNEXURE-P/3 (Pgs. 54 To 63)

- j. That the petitioner filed a writ petition under Article 226 of the Constitution of India before Hon'ble High Court at Calcutta against FIR no. 73 of 2020 on November 1, 2019, being C.R.R. No. 3216 of 2019. However, in the said writ petition not a single effective hearing has been provided and the same is still pending for hearing before the Hon'ble High Court of Kolkata.
- k. In view of the above, the Petitioner is seeking transfer of investigation of cases from the State Police to any other investigating agency which is not within the control of the Respondent Nos.1-3. Such directions are necessary for the purpose of fair, impartial and credible investigation which is ingrained in the Constitution of India.
- l. That the Respondent No. 2 has purposely initiated false criminal prosecutions against the Petitioner to badger the leaders/supporters of Bharatiya Janata Party as well as to prevent them from congregating the mass support and/or forming a strong opposition against the deprecating, derogatory and harmful decision/policies as well as activities of the Respondent No. 2 and the Government of West Bengal towards the residents at large.

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- m. It is also submitted that the State Police is managed and/or controlled by the Respondent no. 2 and the police administration attached to West Bengal is engaged in obliging the personal and political interest of leaders attached to Respondent No. 2, in such a nefarious manner that no free and fair investigation in connection with the aforementioned criminal cases against the Petitioner can be expected which would blatantly infringe the fundamental rights of the Petitioner as enshrined under the Constitution of India.
- n. That the Petitioner submits that cumulative appreciation of the above mentioned circumstances, clearly evinces that since the Petitioner changed his political allegiance, he has been saddled with number of criminal prosecutions at the instance of ruling dispensation of the State of West Bengal out of sheer political vendetta. Further, the State machinery in clear derogation of their solemn duty and responsibility as enshrined under the law of the land engaged themselves in creating undue pressure upon the Petitioner by abusing the process of law for compelling the Petitioner to succumb to their unbridled envy. The mode and manner in which the

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State machinery engaged in purposive prosecution against the Petitioner one after another as also curtailing his liberty without due process of law would clearly establish the dreadful and vindictive attitude of the State machinery which is required to be curbed with strict hands by this Hon'ble Court.

- o. In view of the above, the Petitioner is seeking transfer of investigation of cases from the State Police to any other investigating agency which is not within the control of the Respondent No.1 to 3. Such directions are necessary for the purpose of fair, impartial and credible investigation which is ingrained in the Constitution of India.
- p. It is submitted that the two foundational actions, which has now become a pattern, in the State of West Bengal/Respondent No. 1, *inter alia*, are as under:
 - a. Killings of the supporters and persons associated with the BJP. Recently, more than 102 supporters of the BJP have been brutally murdered within the State of West Bengal;
 - b. Prosecuting and incarcerating those who pursue the cause of BJP by foisting false criminal cases against them. Amongst other, more than 138 false and fabricated cases

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have been registered against the seven prominent opposition leaders, namely Shri Kailash Vijayvargiya, Sri Mukul Roy, Sri Dilip Ghosh, Sri Babul Supriyo, Sri Pawan Kumar Singh, Sri Sourav Singh and the Petitioner in last two years.

- o. The Respondent No. 2 in a very calculated and pre-determined manner adopted a malevolent ploy for initiating number of false criminal persecutions against the leaders/supporters of BJP. The Respondent No. 2 and its leaders have purposely done this to browbeat the leaders/supporters of Bharatiya Janata Party as well as to prevent them from congregating the mass support and/or forming a strong opposition against the deprecating, derogatory and harmful decision/policies as well as activities of the Respondent No. 2 and the Government of West Bengal towards the residents at large.
- p. It is also submitted that the State Police is managed and/or controlled by the Respondent no. 2 and the police administration attached to West Bengal is engaged in obliging the personal and political interest of leaders attached to Respondent No. 2, in such a nefarious manner that no free and fair investigation in connection with the

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aforementioned criminal cases against the Petitioner can be expected which would blatantly infringe the fundamental rights of the Petitioner as enshrined under the Constitution of India:

5. Hence, the instant Writ Petition is being preferred by the Petitioner seeking an order, direction or writ in the nature of Mandamus directing the transfer of investigation of all cases mentioned in Annexure P/1 to an investigative agency not within the control of the Respondent Nos. 1 to 3, in as much as the criminal proceedings instituted against the Petitioner are manifestly attended with mala fides and has been maliciously instituted at the instance of the Respondent No. 2 with an ulterior motive of wrecking vengeance on the Petitioner and with a view to spite him due to political grudge and to harass him, on the following, amongst other grounds:

GROUND

- (a) Because initiation of around 64 criminal cases against the Petitioner, immediately upon him leaving the membership of the All India Trinamool Congress in March, 2019, to join the Bhartiya Janta Party, is a glaring example as to how the State Machineries and the criminal justice system are being mis-used

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in furtherance of the political vendetta that a political party/Respondent No. 2 has against the Petitioner. The details of the said cases are as under:

S. No.	Date	P. S.	FIR No.	IPC	Remarks
1	24-03-2019	Jagaddal	263/2019	34,323, 325, 341, 354B, 506	Political and Vague allegation, should cause preliminary enquiry
2	24-03-2019	Jagaddal	264/2019	143, 147, 323, 506	Political and Vague allegation, should cause preliminary enquiry
3	08-04-2019	Jagaddal	304/2019	34, 323, 341, 427, 448, 506	Political & dispute to host party flag
4	08-04-2019	Jagaddal	307/2019	34, 341, 427, 448, 506	Same cause of action as in the FIR 304/2019
5	08-04-2019	Jagaddal	308/2019	34, 307, 323, 341, 427, 448, 506	Same cause of action as in the FIR 304/2020
6	08-04-2019	Naihati	197/2019	147/148/325 /326/307/427/436/120B	Police is complaint, Political class between two groups, however purposely supporters/hoodlums of TMC has been excused
7	15-04-2019	Jagaddal	330/2019	34, 323, 341, 506	Political and Vague allegation, CISF, Should cause preliminary enquiry
8	16-04-2019	Naihati	216/2019	147/148/149 /427/436/307	Improbable allegation, CISF, Should cause preliminary enquiry
9	16-04-2019	Naihati	219/2019	147, 148, 325, 379	Not Applicable

10	26-04-2019	Naihati.	240/2019	188/341	Political and vague allegation
11	28-04-2019	Jagaddal	371/2019	34, 307, 323, 325, 341, 448, 506	Political, Improbable allegation, CISF, Should cause preliminary enquiry
12	30-04-2019	Jagaddal	378/2019	120B, 143, 144, 147, 307, 326, 427, 436	Political, Improbable allegation, CISF, Should cause preliminary enquiry
13	30-04-2019	Jagaddal	379/2019	120B, 143, 144, 147, 307, 326, 427, 436	Same cause of action as FIR 378/2019
14	05-05-2019	Titagarh	222/2019	34, 323, 325, 341, 427, 506	Political, Improbable allegation, CISF, Should cause preliminary enquiry
15	11-05-2019	Bizpore	218/2019	147, 148, 325, 379	Not Available
16	07-05-2019	Bizpore	250/2019	323, 325, 34	Not Available
17	19-05-2019	Jagaddal	418/2019	120B, 143, 144, 147, 186, 307, 326, 333, 341, 353, 427	Not Available
18	19-05-2019	Jagaddal	419/2019	120B, 143, 144, 147, 186, 307, 326, 333, 341, 353, 427	complaint without FIR, Police is complaint
19	20-05-2019	Jagaddal	420/2019	120B, 143, 144, 147, 186, 307, 326, 333, 341, 353	same cause of action as FIR 419/2019 by police, not named
20	20-05-2019	Jagaddal	421/2019	120B, 143, 144, 147, 307, 325	same cause of action as FIR 419/2020
21	20-05-2019	Jagaddal	423/2019	34, 323, 325, 341	same cause of action as FIR 419/2021
22	21-05-2019	Jagaddal	424/2019	143, 144,	Not Available

				323, 325, 341, 448	
23	21-05-2019	Jagaddal	427/2019	120B	Not Available
24	22-05-2019	Jagaddal	429/2019	120B/286	Not Available
25	22-05-2019	Jagaddal	432/2019	120B/143/14 4/147/379/4 27/448	Not Available
26	01-06-2019	Jagaddal	463/2019	447/427/380 /34	Not Available
27	04-06-2019	Jagaddal	483/2019	34, 379, 427, 447, 506	Not Available
28	06-06-2019	Titagarh	223/2019	34, 323, 325, 427, 448, 506	Political, Improbable allegation, Should cause preliminary enquiry
29	01-09-2019	Jagaddal	770/2019	34, 307, 325, 326, 427, 441	Political, Improbable allegation, Should cause preliminary enquiry
30	01-09-2019	Jagaddal	772/2019	147, 148, 149, 186, 307, 332, 333, 353, 379, 427, 506	Not Available
31	02-09-2019	Jagaddal	779/2019	-	Basically no allegation
32	17-11-2019	Ghola	488/2019	117, 143, 147, 506	Not Available
33	14-12-2019	Bhatpar a	318/2019	323, 325, 341	Not Available
34	24-12-2019	Bhatpar a	336/2019	34, 143, 323, 341, 506	Political, Vague allegation, Should cause preliminary enquiry
35	09/02/202 0	Bhatpar a	73/2020	467/468/471 /420/406/40 9/120B	First FIR in Co- operative Bank
36	16-03-2020	Bhatpar a	147/2020	120B, 409, 420, 467, 468, 471	in connection with similar issue as in FIR 73/2020
37	03-04-2020	Bhatpar a	158/2020	120B, 409, 420, 467, 468, 471	in connection with similar issue as in FIR 73/2020

38	27-04-2020	Jagaddal	252/2020	188, 504, 505	Political
39	14-05-2020	Jagaddal	278/2020	188	Vague allegation by police
40	15-05-2020	Chinsurah	156/2020	34, 188	Not Available
41	15-05-2020	Chinsurah	155/2020	120B, 153A, 468, 469, 505, 506	Not Available
42	18-05-2020	Bhatpara	196/2020	120B, 409, 420, 467, 468, 471	in connection with similar issue as in FIR 73/2020
43	19-05-2020	Chinsurah	157/2020	120B, 153A, 468, 469, 505	Not Available
44	03-07-2020	Bhatpara	234/2020	120B, 409, 420, 467, 468, 471	in connection with similar issue as in FIR 73/2020
45	05-07-2020	Bizpore	247/2020	147, 148, 149, 186, 307, 336, 353	same cause of action as FIR 245 by Police
46	05-07-2020	Bizpore	245/2020	147, 148, 149, 186, 326, 353	Political and vague allegation
47	07-07-2020	Bhatpara	242/2020	467/468/471 /420/406/409/120B	in connection with similar issue as in FIR 73/2020
48	07-07-2020	Bhatpara	243/2020	467/468/471 /420/406/409/120B	in connection with similar issue as in FIR 73/2020
49	14-07-2020	Bhatpara	259/2020	120B, 409, 420, 467, 468, 471	in connection with notice issued in FIR 73/2020
50	15-07-2020	Bhatpara	263/2020	120B, 307, 326	Political and vague allegation
51	18-07-2020	Jagaddal	446/2020	188	Covid
52	18-07-2020	Jagaddal	447/2020	143/186/188 /353/323/506/34	Covid, police
53	20-07-2020	Bhatpara	271/2020	403/406/409 /468/471/120B	in connection with notice issued in FIR 73/2020
54	20-07-2020	Bhatpara	272/2020	403/406/409 /468/471/120B	in connection with notice issued in FIR 73/2020

55	20-07-2020	Bhatpara	273/2020	403/406/409 /468/471/12 0B	in connection with similar issue as in FIR 73/2020
56	28-07-2020	Bhatpara	286/2020	403/406/409 /468/471/12 0B	Intra
57	18-08-2020	Barrackpore	114/2020	188/34	Covid, police
58	25-08-2020	Bhatpara	318/2020	341/323/325	Chairman relief Fund
59	02-09-2020	Behrampur	279/2020	295A, 501, 504, 505(2), 34	Not Available
60	03/09/2020	Bhatpara	327/2020	403/467/468 /471/420/40 6/409/120B	in connection with similar issue as in FIR 73/2020
61	10-09-2020	Jagaddal	587/2020	202/206/419 /468	Arms Act
62	22-09-2020	Bhatpara	357/2020	467/468/471 /420/406/40 9/120B	in connection with notice issued in FIR 73/2020
63	22-09-2020	Bhatpara	358/2020	467/468/471 /420/406/40 9/120B	Same cause of action as in the FIR 73/2020
64		Bizpore	199/2020	188	Not Available

- (b) Because from a bare perusal of the aforesaid table the degree of animosity of the Respondent No. 2 against the Petitioner can be easily gauged since as many as 11 to 12 cases have been filed against the Petitioner in one month.
- (c) Because majority of cases have been lodged by AITC Leaders with vague allegations against the Petitioner to say the least at least a preliminary enquiry before lodging the said FIR should have been undertaken. There are several cases in relation to

the same cause of action. That with a view to only multiply the number of criminal cases against the Petitioner multiple FIRs have been lodged in relation to the same cause of action. The allegations of few FIRs are improbable. It is submitted that there are certain FIRs lodged without any cause of action. That the Police has also lodged the FIR on same cause of action and purposely excluded the supporters/hoodlums of AITC.

(d) Because the Petitioner/Arjun Singh, is an Indian politician and a Member of Parliament in the 17th Lok Sabha from Barrackpore Lok Sabha constituency in West Bengal. He contested the 2019 Indian general election as a BJP candidate and won. Previously, the Petitioner had also won Bhatpara assembly seat consecutive four times since 2001 as a Trinamool Congress candidate. He has also been appointed as one of the twelve Vice-Presidents of the West Bengal Unit of BJP on 01.06.2020.

(e) Because after joining BJP, the Petitioner has faced numerous challenges including filing of several criminal cases against him. It is pertinent to note that no stone has been left unturned by the Respondent No. 2 by making use of the State Machinery and the State Police to harass the Petitioner. It is submitted that

the Barrackpore Police tried to arrest him before Counting Day of the 2019 Indian general election. In view of this, the Petitioner preferred a Special Leave Petition before this Hon'ble Court being Writ Petition (Criminal) Diary No. (S). 19284/2019, thereby praying for necessary reliefs against such malicious and purposive prosecutions initiated at the instant of the ruling political party of the State of West Bengal. On 22.05.2019, this Hon'ble Court was pleased to grant insulation to Petitioner, to the effect that no coercive action shall be taken against him in cases which have been registered against him so far and in which his arrest is required for a certain period.

- (f) Because, Petitioner's house was also attacked with bombs and his car was also damaged by a TMC worker who threw stones, bombs and bricks. The Petitioner's son also had to face attacks on his car. That even after the elections, the violence against Petitioner continued. His residence was attacked with seven rounds of fire and two bombs were hurled near his office and residence.
- (g) Because on 01.09.2019, the Petitioner sustained a head injury by the Commissioner of Police, Barrackpore Commissionerate during a clash between BJP and TMC supporters over control of

party-office at Shyamnagar, which is under Jagatdal assembly constituency. The petitioner complained about such incident to the police who refused to lodge an FIR. Being aggrieved the petitioner filed an application under section 156(3) of CrPC which was rejected by Learned ACJM. Being aggrieved by such passed by order by Learned ACJM, the petitioner preferred an Appeal before the Hon'ble High Court at Calcutta, being C.R.R. No. 3216 of 2019, which is still pending adjudication. His car was also vandalised by TMC cadres. That on 05.07.2020, once again Petitioner's car was Vandalised by the TMC Cadres at Halisahar while he was present in house of a BJP karyakarta.

- (h) Because the Respondent No. 2 with a view to vent its political vendetta has initiated false and frivolous cases against political leaders whose political allegiance and ideologies is different from theirs. That since the Petitioner changed his political allegiance, he has been saddled with number of criminal prosecutions at the instance of ruling dispensation of the State of West Bengal out of sheer political vendetta. Further, the State machinery in clear derogation of their solemn duty and responsibility as enshrined under the law of the land engaged themselves in creating undue pressure upon the Petitioner by

abusing the process of law for compelling the Petitioner to succumb to their unbridled envy.

- (i) Because the mode and manner in which the State machinery engaged in purposive prosecution against the Petitioner one after another as also curtailing his liberty without due process of law would clearly establish the dreadful and vindictive attitude of the State machinery which is required to be curbed with strict hands by this Hon'ble Court.
- (j) Because another political person namely, Bharati Ghosh, has similarly been victimized and unduly harassed at the instance of the ruling political party of the State of West Bengal. She was also saddled with number of false criminal cases out of sheer political vendetta due to change of her political allegiance. That Bharati Ghosh preferred a Special Leave Petition before this Hon'ble Court being Writ Petition (Criminal) No. (S). 254/2018, thereby praying for necessary reliefs against such malicious and purposive prosecutions initiated at the instant of the ruling political party of the State of West Bengal. That in the said petition, this Hon'ble Court vide interim order directed that no

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coercive steps be taken against her in connection with any of the cases mentioned therein.

- (k) Because the petitioner filed a writ petition under Article 226 of the Constitution of India before Hon'ble High Court at Calcutta against FIR no. 73 of 2020 on November 1, 2019, being C.R.R. No. 3216 of 2019. However, in the said writ petition not a single effective hearing has been provided and the same is still pending for hearing before the Hon'ble High Court of Kolkata.
- (l) Because in view of the above, the Petitioner is seeking transfer of investigation of cases from the State Police to any other investigating agency which is not within the control of the Respondent No.2. Such directions are necessary for the purpose of fair, impartial and credible investigation which is ingrained in the Constitution of India.
- (m) Because it is submitted that the two foundational actions, which has now become a pattern, in the State of West Bengal/Respondent No. 1, *inter alia*, are as under:

- i) Killings of the supporters and persons associated with the BJP. Recently, more than 102 supporters of the BJP have been brutally murdered within the State of West Bengal;
 - ii) Prosecuting and incarcerating those who pursue the cause of BJP by foisting false criminal cases against them. Amongst other, more than 138 false and fabricated cases have been registered against the seven prominent opposition leaders, namely Shri Kailash Vijayvargiya, Sri Mukul Roy, Sri Dilip Ghosh, Sri Babul Supriyo, Petitioner, Sri Pawan Kumar Singh and Sri Sourav Singh in last two years.
- (n) Because the Respondent No. 2 has purposely initiated false criminal prosecutions against the Petitioner to badger the leaders/supporters of Bharatiya Janata Party as well as to prevent them from congregating the mass support and/or forming a strong opposition against the deprecating, derogatory and harmful decision/policies as well as activities of the Respondent No. 2 and the Government of West Bengal towards the residents at large.
- (o) Because the State Police is managed and/or controlled by the Respondent no. 2 and the police administration attached to

West Bengal is engaged in obliging the personal and political interest of leaders attached to Respondent No. 2, in such a nefarious manner that no free and fair investigation in connection with the aforementioned criminal cases against the Petitioner can be expected which would blatantly infringe the fundamental rights of the Petitioner as enshrined under the Constitution of India.

- (p) Because the cumulative appreciation of the above mentioned circumstances, clearly evinces that since the Petitioner changed his political allegiance, he has been saddled with number of criminal prosecutions at the instance of ruling dispensation of the State of West Bengal out of sheer political vendetta. Further, the State machinery in clear derogation of their solemn duty and responsibility as enshrined under the law of the land engaged themselves in creating undue pressure upon the Petitioner by abusing the process of law for compelling the Petitioner to succumb to their unbridled envy. The mode and manner in which the State machinery engaged in purposive prosecution against the Petitioner one after another as also curtailing his liberty without due process of law would clearly establish the dreadful and vindictive attitude of the State

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machinery which is required to be curbed with strict hands by this Hon'ble Court.

- (q) Because in view of the above, the Petitioner is seeking transfer of investigation of cases from the State Police to any other investigating agency which is not within the control of the Respondent Nos.1 to 4. Such directions are necessary for the purpose of fair, impartial and credible investigation which is ingrained in the Constitution of India.
- (r) Because the Respondent No. 2 in a very calculated and pre-determined manner adopted a malevolent ploy for initiating number of false criminal persecutions against the leaders/supporters of BJP. The Respondent No. 2 and its leaders have purposely done this to browbeat the leaders/supporters of Bharatiya Janata Party as well as to prevent them from congregating the mass support and/or forming a strong opposition against the deprecating, derogatory and harmful decision/policies as well as activities of the Respondent No. 2 and the Government of West Bengal towards the residents at large.

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- (s) Because after 34 years in power, Left Front Government was ousted by All India Trinamool Congress (AITC), in 2011. The people of West Bengal re-elected the AITC government in 2016.
- (t) Because there were four-cornered contest between the AITC, Left Front, BJP and Indian National Congress, hereinafter referred to as INC in the Panchayat Election in 2018 before the Lok Sabha elections in 2019. The violence was reported from various parts of West Bengal while polling for the single-phase panchayat elections in 2018. Around 50 people were killed and the security provided for the election was clearly insufficient and lumpen elements had a free run. The State government deliberately avoided checking the violence, due to deep sense of insecurity of being routed in the election. Due to such political violence, the Opposition, comprising mainly the Left Front, INC and BJP did not give any candidate in more than a third of 58,792 seats and Respondent no. 3 bagged these seats without even a semblance of a fight, the first time since the three-tier rural poll was instituted in 1978. The rise of the BJP in the State is so sharp that it appears to be enough to have unsettled the Respondent no. 2. The BJP captured one-fourth of the contested seats in these panchayat elections and the

vote share of BJP has gone up from 1% to 18%, whereas the vote share of Left Front dropped from 32% to 5%.

- (u) Because in the Lok Sabha elections, 2019, the BJP had increased its tally from 2 to 18 and increase its vote share from 18% to 40.25%. In fact, the BJP's growth curve is rather similar to that of the Respondent no. 2, a decade ago, and it has made no secret of its ambition to try to dislodge the Respondent no. 2 in the ensuing 2021 Assembly polls.
- (v) Because since the increase in vote share of BJP, the law and order situation in the State of West Bengal exacerbated to an unparalleled extent seemingly on account of political violence. The ruling dispensation is using coercive measure against the leaders and supporters of BJP, like violence, intimidation and a barrage of false and fabricated cases.
- (w) Because in all the cases where the victims are the active supporter of the BJP, the police administration attached to State of West Bengal, under the garb of causing investigation undertook causing disappearance of materials as well as manipulating and/or manufacturing materials to shield the real accused persons. The authorities entrusted with investigation

with any of the aforementioned cases, never intended to cause any investigation far less than fair and impartial investigation. The said agencies also tailored the names and/or allegations, never examined the witnesses who are well acquainted with the facts of the case, refused to seize and/or recover incriminating materials and purposely diverted the investigation into an aimless direction. They have adopted all these malpractices for shielding the real accused persons who are the kingpins and/or hoodlums with affiliation to the Respondent no. 2.

- (x) Because the authoritative vilification at the hands of the West Bengal Police clearly at the behest of the Respondent No.1, of people associated with a particular opposite political party has cast a cloud on the impartiality of the investigation process and the authority.
- (y) Because in all the cases mentioned in Annexure-P/1 involvement of the Petitioner is purely a figment of imagination and have been made out of sheer political vendetta. Since, the opposition leaders have been able to congregate the opposition mass force under one umbrella, the leaders of Respondent No. 2 with active connivance with the police-administration of the State of West Bengal, started foisting the leaders of BJP with number of

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false criminal cases and subjected them to enormous persecutions. The police authorities have gained over the witnesses and tampered with the evidence. The police authorities have proceeded with the investigation in such pre-determined manners and/or with preconceived notion that free, fair and impartial investigation in connection with the said cases appears to be a utopian idea.

- (z) Because from the conduct of the police as well as from the statements made by political leaders of the Respondent no. 2 on several occasions pertaining to the genocide of supporters of Bharatiya Janata Party, in West Bengal, there is every doubt about a chance of neutrality in investigation of the case(s) and there is every possibility of foul play.
- (aa) Because subject actions and/or omissions of the Respondent No.1 and the West Bengal Police are only to quell and muzzle the supporters of BJP, which is undisputedly on a historic rise in the State of West Bengal. Such destructive actions and/or omissions by the West Bengal Police is merely mechanization deployed by the Respondent No.1-2 to create a fear psychosis amongst the people associated or people wishing to associate themselves with BJP.

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- (bb) Because to infuse fear amongst the supporters of BJP, the Respondent No. 2 and its leaders, engaged/hired killers and/or hoodlums to inflict immense torture upon the supporters of BJP and murdered several persons. On every occasion a pathetic attempt has been made by the concerned police-administration as well as leaders attached to the Respondent No. 2, to represent the said incidents either as a clash between two rival groups and/or as an unnatural death without disclosing any commission of cognizable offences. These continuous surreptitious activities of the law enforcement agencies within the State of West Bengal is completely destroying the law and order situation of state and converted it to be a free-zone for those hardened criminals.
- (cc) Because the police administration and/or investigation machinery attached to State of West Bengal have been continuously acting in such credulous manner, abdicating their statutory duty to political acrimony that a serious mayhem in the state is imminent. The way the police administration attached to State of West Bengal sacrificed their pious statutory duty to the spiteful dictum of the Respondent No. 2 is unheard

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off. It further amounts to direct interference with the administration of criminal justice delivery system.

- (dd) Because it is astonishing that victimization of people associated with BJP is flagrantly glorified in the media and the details of investigation, if any, are systematically revealed to media during the pendency of the so-called investigative process which itself subverts the fairness of investigation.
- (ee) Because the duty as enshrined upon the investigating agency by the law of land is to unearth the truth and to book the actual culprits without being influenced by their social, political and financial status.
- (ff) Because the said Investigating Agencies, for reasons, which has no bearing in the eyes of law have refused to investigate the matters properly and impartially. The said authorities seem to have been wilfully oblivious of the fact that the investigation with pre-determined decision could result in disappearance of material evidence, influencing of witnesses and coming into play of other extraneous factors. The investigating agencies without causing any investigation took all necessary steps to suppress the truth and succumbed to the highhandedness and clout of

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leaders and associates of the Respondent No. 2. There is unholy nexus between the police administration and the ruling political party. Because of such nexus, the police administration attached to State of West Bengal engaged them in obliging the Respondent No. 2 by sacrificing their pious and legal duty to cause investigation of a criminal prosecution in free, unbiased and independent manner. The conduct of the said investigating machinery is suffering from the smack of partisan attitude.

- (gg) Because until and unless the highly solicited prerogative power of this Hon'ble Court is exercised to cause true and proper investigation of the criminal prosecutions mentioned above, by an independent investigating agency under the supervision of this Hon'ble Court, the same will have long detrimental effect upon the public mind and society. Further, it will create such situational crisis that mayhem and/or anarchy in the society is unavoidable and the same would amount to giving indulgence to the law enforcement agency in continuing such illegal activities.
- (hh) Because Respondents no. 1 is the creature of the Statue and as such, they are bound to perform their duties within the scope and ambit of the guiding statute. Further, the Respondent Authorities failed and/or neglected to take any steps to ensure

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proper investigation in connection with the criminal prosecutions mentioned above for some extraneous considerations and actually succumbed to the political, social and financial clout of the leaders associated with the Respondent No. 2.

- (ii) Because the Respondent No. 4, being the supreme authority of the entire force is entrusted with the duty of supervising the investigation of all the criminal prosecutions as mentioned above. The Respondents No. 4 is responsible to ensure that the investigation of those cases are conducted in free and fair manner without being influenced by the political, social and financial status of either the Complainant or possible Accused of those cases.
- (jj) Because the Petitioner is seriously aggrieved by the aforesaid manipulated, arbitrary, partisan and derogatory conduct of the Respondent Nos 1 - 4 which has shocked the Petitioner ;
- (kk) Because the purported act and/or actions and/or conduct of the Respondent Nos. 1 - 4 detailed in the instant Writ Petition is in clear violation of the most precious fundamental rights of the Petitioner enshrined under Article 14 and Article 21 of the Constitution of India. Hence, requires interference of this

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Hon'ble Court by exercising its highly solicited prerogative power.

- (ll) Because the Petitioner states that the purpose of any criminal investigation is to ensure true and proper probe into the matter, unearth the truth and to book the actual culprits without being influenced by their social, political and financial status. Any act or action of the authorities and/or law enforcement agency in violation and/or disregard to this settled principle of law is clearly an act of favouritism and meant to defeat the spirit of free and fair investigation.
- (mm) Because Article 14 of the Constitution of India is the antithesis to all arbitrariness. Any arbitrary, whimsical or capricious act or action by a public officer and /or statutory functionary or exercise of power in highhanded and colourable manner is a violation of the rule against arbitrariness contained under Article 14 of the Constitution of India. The Respondent Nos. 1-3 have clearly violated the rule against arbitrariness enshrined under Article 14 of the Constitution of India, which is an integral limb of Part - III of the Constitution of India.

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- (nn) Because the inaction/non-action and partisan /biased attitude on the part of the police administration and/or Investigating Agency entrusted with the investigation of the aforementioned criminal cases are writ large. Not taking necessary steps to investigate the cases in a proper manner is arbitrary, perverse and illegal. Such inaction can be sustained neither in law nor in equity and is clearly violative of the fundamental rights of citizens as enshrined in Articles 14 and 21 of the Constitution of India.
- (oo) Because the Petitioner states that for ensuring true and proper investigation in connection with the criminal prosecutions mentioned above, interference of this Hon'ble Court in this matter is highly solicited. From the very inception, the police authorities without having regard to the law of the land as well as in clear violation of their duty as enshrined under the guiding statute, conducted the investigation of those cases in a most tainted manner. They sacrificed their statutory obligation to the highhandedness and/or influence of the Respondent No. 2 and its leaders.

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- (pp) Because if these type of oppressions and whimsical approach of the law enforcement agency, as narrated above is allowed to be continued, the same would render the society into an anarchy. Such mayhem can no way be prevented without the interference of this Hon'ble Court.
- (qq) Because the inaction and/or pre-determined/biased action of the investigating agencies, which are entrusted with the investigation of the aforementioned criminal cases are acting in complete violation of the provisions of the Code of Criminal Procedure, 1973 and of the Police Act, 1861. It is submitted that the Respondents 1-~~4~~ have clearly failed to act in accordance with law and as such, the investigation should be immediately handed over to any independent agency like the Central Bureau of Investigation so that the said investigation may be concluded in a fair and proper manner.
- (rr) Because it is the settled principle of law as laid down by this Hon'ble Court that when it is palpable from the materials on record that the concerned investigating agency is not conducting investigation in proper manner and/or there is sufficient reason to believe that there is laxity in investigation or there is specific allegation against the local Police personnel

for not conducting any investigation because of some extraneous consideration, it is necessary either to transfer the investigation and/or to pass necessary direction for causing proper investigation of the said case(s) by any independent agency. Such direction is required to be passed to do justice between the parties or to in still confidence in the public mind or to give an assurance to the victim that the case is being looked after by an independent agency, which would ultimately lend final outcome of the investigation credibility.

(ss) Because true and proper appreciation of the circumstances narrated in the foregoing paragraphs squarely satisfies the conditions required for recording judicial satisfaction of this Hon'ble Court as to existence of exigent and/or exceptional circumstances and for passing necessary direction to transfer investigation of the aforementioned criminal prosecutions as mentioned above.

(tt) It is well settled law of the land that in an appropriate case, if this Hon'ble Court feels that the investigation by the police authorities is not in the proper direction, or the facts of the case so demand or to ensure complete justice, this Hon'ble Court can transfer investigation of a criminal prosecution to a

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specialized agency. It is imperative to examine as to whether for doing complete justice and enforcing the fundamental rights guaranteed by the Constitution, the relief of entrustment of the investigation of the case again to CBI is grantable or not on its own merits. The complained incidents and activities chiefly, in view of the intrepid, audacious and fiendish intrusion of human right(s) as well as fundamental rights of public at large by the Respondent No. 2 and its leaders, by defiantly violating all canons of law and making a mockery of the administrative regime entrusted with the responsibility to maintain an orderly society.

(uu) Because if deficiency in investigation or prosecution is visible or can be perceived by lifting the veil which try to hide the realities or covering the obvious deficiency, the Court of law have to deal with the same with an iron hand appropriately within the framework of law. It is onerous duty under the law of the land that full and material facts are brought on record so that there might not be miscarriage of justice. In order to ensure that the criminal prosecution is carried on without any deficiency, in appropriate cases this Hon'ble Court can even constitute Special Investigation Team and give appropriate

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directions to the Central and State Governments and other authorities to give all required assistance to such specially constituted investigating team in order to book the real culprits and for effective conduct of the prosecution. While entrusting the criminal prosecution with other instrumentalities of State or by constituting a Special Investigation Team, Constitutional Courts can also monitor such investigation in order to ensure proper conduct of the prosecution. In appropriate cases even if the charge-sheet is filed it is open for this Hon'ble Court to direct investigation of the case to be handed over to CBI or to any other independent agency to do complete justice. In exceptional circumstances this Hon'ble Court to prevent miscarriage of criminal justice and if considers necessary may direct for investigation de novo.

- (v) The Petitioner states that true and proper appreciation of the events as narrated in the foregoing paragraphs clearly makes out an exceptional situation, necessitating transfer of investigation and/or causing further investigation of the aforementioned criminal prosecutions by an independent agency i.e. Central Bureau of Investigation. Such transfer is necessary

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for providing credibility and/or instilling confidence of the public at large in investigations of those criminal prosecutions.

- (ww) Because from the facts and circumstances it appears that it is not possible to allow the State to investigate the said cases as mentioned above. In any event, the State Police is managed and/or controlled by the Respondent no. 2 and the police administration attached to West Bengal is engaged in obliging the personal and political interest of leaders attached to Respondent No. 2, in such a nefarious manner, no free and fair investigation in connection with the aforementioned criminal case can be expected.
- (xx) In view of the above, the instant petition seeks transfer of investigation of cases against the Petitioner from the State Police to any other investigating agency which is not within the control of the Respondent Nos.1-4, Such directions are necessary for the purpose of fair, impartial and credible investigation which is ingrained in the Constitution of India.
6. That in view of the aforesaid, the Petitioner is left with no other alternative remedy than to approach this Hon'ble Court

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seeking a redressal of its grievances and protection of its fundamental rights enshrined in the Constitution of India.

7. That the Petitioner states that it has no other adequate and/or equally efficacious remedy available to it and that the reliefs prayed for herein, if granted, will be complete.
8. That the Petitioner has not filed any other petition in the Supreme Court of India or any other court pertaining to the subject matter of this petition.
9. That the present writ petition is moved bona fide and in the interest of justice.
10. That in light of the facts and circumstances herein before mentioned the Petitioner is seeking the following relief:

PRAYER

In the above premises, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- (a) Issue a writ, order or direction in the nature of mandamus directing transfer of the cases as mentioned in Annexure P/1 to any other independent investigation agency not within the control of the Respondent nos. 1 to 4 for fair investigation;

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- (b) Pass any other orders or directions which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.

DRAWN AND FILED BY:

AWANTIKA MANOHAR
ADVOCATE FOR THE PETITIONER

DRAWN ON : 04 .12.2020

FILED ON: 04.12.2020

NEW DELHI