

**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**WPCRL No.145 of 2013**

*Ratnalu Omprakash* .... *Petitioner*

*Mr.J.R.Dash, Adv.*

-versus-

*State of Odisha & others* .... *Opp. Parties*

*Mr. Mrs. Saswat*

*Pattnaik,AGA*

*Mr.Ch.S.Mishra,AGA*

**CORAM:**  
**DR. JUSTICE S.K. PANIGRAHI**

**Order**  
**No.**

**ORDER**  
**26.04.2023**

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- 1.This matter is taken up through hybrid mode.
  2. Heard learned counsel for the petitioner and learned counsel for the State.
  3. The petitioner has filed this petition seeking direction from this Court for reinvestigation of the case with respect to murder of his son Rahul Siba Prasad.
  4. The facts of the case in short is that on 20.03.2012 one Rajesh Gajibili and Dillip Gajibili came to the house of the petitioner at about 9 P.M. .At that time the electric current was cut off. His wife along with his son was present in

the house. They called his son Siba Prasad outside and killed him at a deserted place of the village and hanged him in a tree in a suicidal posture due to his love affairs with one girl namely, Gajibili Yastsna of the same village.

5. Learned counsel for the petitioner submits that FIR submitted by one Gajibili Rajesh Kumar who tried to twist the fact narrating the deceased as lunatic as he was in relationship with the girl. It is further submitted that the deceased was a driver of the heavy vehicles and had a reasonably good physique with sound mind. The statement under section 161 Cr.P.C recorded by the Police is not the statement of the petitioner's father rather the police has written many things not stated by him. Finding oblique motive of the of the opposite party No.4/ the Inspector In-charge of Shashikhal Police Station, the petitioner informed it to opposite party No.3/ the Superintendent of Police for speedy action. But, despite due information filed on 28.03.2012 the said opposite party did not take any step on it.

6. On perusal of the materials available in the case diary it reveals that there are some infirmities especially with respect to 161 statement made under Section 161 Cr.P.C. by the deceased's father that this case has turned out to

be a case of suicide. Petitioner finds that there are a lot of disjoints in the prosecution's investigation. However, the signature of the petitioner is not there and he is also not agreeable what has been written in the said statement.

7. In view of the above infirmities, it seems that there have been a lot of mismatch between 'is' and 'ought' in the said process of recording of evidence.

9. Learned counsel for the petitioner further submits that death took place in the year 2012. The case was filed in the year 2012, it was listed before this Court on 30.01.2013 and notice was issued on 09.04.2013. Since then the matter was not listed. Further it was listed on 5<sup>th</sup> July, 2022 which is after more than a decade. It seems that the case of the petitioner has not been listed for such a long time.

4. Learned counsel for the State objected the submission of transferring the matter to any other agency since the matter has already been more over than a decade old and even if some infirmities are there, the said Investigating Agency may not be able to conduct proper reinvestigatin due to wear and tear of many evidences.

5. Learned counsel for the petitioner referred to Supreme Court's judgment in case of **Pooja Pal Vrs. Union of**

**India** in Criminal Appeal No. 77 of 2016 wherein it has been held that even if there is strangulation, nothing bars to pass order for denovo enquiry. If the enquiry is not done properly or any kind of doubt is created this becomes a fit case for a re-investigation. The relevant Paragraphs 95 and 96 of the said judgment are extracted hereunder are quoted herein below for better appreciation.

95. In the wake of the above, we are unhesitatingly inclined to entrust the CBL with the task of undertaking a de novo investigation in the incident of murder of Raju Pal, the husband of the appellant as aforementioned. Though a plea has been raised on behalf of the respondent Nos: 4 and 5 in particular that this incident has been exploited by the appellant for her political gains, we are left unpersuaded thereby, as her achievements in public life must have been fashioned by very many ponderable as well as imponderable factors. In any view of the matter, such a contention, in our view, is of no consequence or relevance. We would, however make it abundantly clear that this direction for entrustment of the investigation to the CBI anew has been made in view of the exceptional features of the case as overwhelmingly demonstrated by attendant facts and circumstances indispensably necessitating the same.

96. We are aware that in the meantime, over a decade has passed. The call of justice however demands, that the CBI in spite of the constraints that it may face in view of the time lag, would make all possible endeavours to disenter the truth through its effective and competent investigation and submit the same before the trial court, as early as possible preferably within the period of six months from today. The clarion call of justice expects a befitting response from the countrys premier and distinguished investigating agency. On receipt of the report by the CBI only, the trial court would proceed therewith in accordance with law and conduct and conclude the trial expeditiously and not later than six months. The interim order staying the ongoing trial is hereby made absolute.

6. In such view of the matter, the matter be handed over to the Crime Branch for a denove investigation of the matter and the said Crime Branch will complete the investigation as early as possible preferably within a period of six months from today.

7. The WPCRL is, accordingly, disposed of.

*( Dr. S.K. Panigrahi )*

*Judge*

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