

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3892/2020
(@ SLP(C)No.10963/2020)

THE STATE OF KERALA & ORS. .. Appellant(s)

Versus

KRISHNAN & ORS. .. Respondent(s)

O R D E R

Leave granted.

One Mr. Kripesh, aged 21 years and one Mr. Sarath Lal @ Joshy, aged 24 years, were murdered on 17.02.2019 at about 7.45 p.m. FIR No.81/2019 was registered at Bekal Police Station for an offence punishable under Section 302 of the IPC on the same day. Investigation was handed over to the Deputy Superintendent of Police, Crime Branch on 18.02.2019. Crime No.75/CB/KNR&KSD/2019 was registered by Crime Branch, Kasargod, for offences punishable under Sections 143, 147, 148, 341, 326, 201, 212, 120B, 118 and 302 r/w Section 149 IPC.

The Special Investigation Team headed by Deputy Superintendent of Police conducted the investigation and final report under Section 173 of the Code of Criminal Procedure was filed on 20.05.2019.

The parents of the deceased filed a writ petition in the Kerala High Court seeking transfer of further investigation to the Central Bureau of Investigation (CBI)

by alleging that the investigation by the crime branch was perfunctory.

The learned Single Judge of the Kerala High Court allowed the writ petition. The final report was set aside and a direction was given to the CBI to continue the investigation in the case. Aggrieved by the said judgment of the learned Single Judge, the State of Kerala filed an appeal which was disposed of by a Division Bench of the High Court by its judgment dated 25.08.2020. The findings recorded by the learned Single Judge setting aside the final report were reversed by the Division Bench. However, the Division Bench upheld the judgment of the learned Single Judge that the investigation has to be transferred to the CBI. The State of Kerala is before this Court challenging the judgment of the Kerala High Court dated 25.08.2020.

Mr. Maninder Singh, learned senior counsel appearing for the State of Kerala submitted that the parameters for exercise of power under Article 226 of the Constitution and Article 32 of the Constitution for transfer of further investigations to the CBI have been set out by this Court in a catena of cases. Transfer of further investigation from the local police to the CBI can be done only in the rarest of rare cases. He stated that slackness of investigation by the State Police cannot be a ground for transfer of investigation to CBI. He further submitted that transfer of investigations from the local police to

the CBI will affect the morale of the State Police.

The learned Solicitor General appearing for the CBI and Mr. V. Giri, learned senior counsel appearing for the writ petitioners supported the judgment of the Division Bench of the Kerala High Court. They stated that detailed reasons have been recorded by the High Court to highlight the unfairness in the investigation. To instill the confidence in the minds of the writ petitioners and the public that the investigation is done in a fair and impartial manner, the High Court was right in transferring the investigation to the CBI.

We are in agreement with the reasons given by the High Court for transferring the investigation to the Central Bureau of Investigation. We make it clear that mere transfer of investigation to the CBI does not indicate impartiality or incompetence of the State Police. The Central Bureau of Investigation, according to the learned Solicitor General, has already commenced the investigation and has requested for the records from the State Police.

We direct the concerned Police authorities of the Kerala State to provide the relevant material to the CBI at the earliest.

Mr. Maninder Singh pointed out certain paragraphs in the impugned judgment where certain adverse remarks are made against the State. After going through the judgment, we are not in agreement with Mr. Singh that

there is any comment in the judgment which is adverse to the State of Kerala or its investigation agency.

With the above observations, the appeal is dismissed. Pending application(s), if any, shall stand disposed of.

.....J.
(L.NAGESWARA RAO)

.....J.
(HEMANT GUPTA)

New Delhi,
1st December, 2020.

