

(2012) 02 DEL CK 0160

In the Delhi High Court

Case No : Writ Petition (Criminal) No. 1216 of 2009

Indu Chokshi and Anr

APPELLANT

Vs

CBI and Others

RESPONDENT

Date of Decision : 15-02-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 174, 482

Citation : (2012) 02 DEL CK 0160

Hon'ble Judges : M.L. Mehta, J

Bench : Single Bench

Advocate : Yog Verdhan, for the Appellant; A.S. Rathore and Mr. Saleem Ahmed, ASC for State, Advocate Mr. P.K. Sharma for CBI, for the Respondent

Final Decision : Dismissed

Judgement

M.L. Mehta, J.—The present writ petition under article 226 r/w section 482 CrPC is preferred praying for a CBI inquiry in the investigation and constitution of a medical board to examine the cause of death of the Petitioners' mother by hanging alleging laxity in investigation by the local police.

2. The brief facts necessitating the present petition are that on 08.11.2007 information was received to the effect that one lady namely Smt. Krishna Devi has committed suicide at premises no. C-1/96, Phase-II Ashok Vihar, Delhi which was recorded vide D.D. No. 10-A. On receipt of the information the IO reached the spot and on enquiry he was informed that the deceased used to get up early in the morning, but on that day when she did not wake up for quite sometime, her daughter- in- law Kumud Sharma knocked at the door and since there was no response, she informed her husband and children who pushed the door as a result of which the Chitkani broke and when they entered the room they saw the deceased hanging from a ceiling fan with the help of a saree. The crime team was summoned at the spot, which thoroughly inspected the spot. The scene of occurrence was photographed. A suicide note was found on the spot. Proceedings u/s 174 CrPC were initiated.

3. The body of the deceased was sent for post mortem and no injury was found on the body of the deceased. Further the viscera of the deceased was sent to FSL which opined that no common poison was detected in the viscera. After the receipt of the viscera report, opinion of the autopsy was sought which opined that the cause of death was Asphyxia consequent upon ligature pressure over neck. The autopsy report opined that it was a case of suicidal hanging. Further the suicide note of the deceased was also sent to the FSL which opined that the writing on the suicide note matched with the admitted writing samples of the deceased. Also during the inquest proceeding no foul play was found in the death of the deceased.

4. The learned counsel for the Petitioners contended that the investigation conducted by the police authorities was lax and moved forward with a pre-conceived notion of the incident being a suicide and did not consider the probable and apparent circumstances of the incident. He contended that the police investigation over looked the factum that the deceased was suffering from arthritis and it was improbable for the deceased to have tied herself to the ceiling fan. The counsel for the petitioners also contended that the son and daughter-in-law of the deceased who were residing with the deceased kept the deceased under threat and restraint which fact was over looked by the police authorities.

5. This court under article 226 has the power to direct CBI investigation if prima facie on the material facts and circumstances of a case this court deems it fit for a CBI investigation. However this practice has to be followed in very exceptional and rare cases where the local police ordinarily cannot conduct the investigation or there are reasons to believe that the fair investigation was not being conducted. If this practice is not followed the CBI will be flooded with large number of cases and it will be impossible for them to properly investigate all the cases. A CBI enquiry cannot be ordered as a matter of routine or merely some party makes allegation or asks for the same. This discretion has to be exercised judicially keeping in view the circumstances of each case. This view has been enshrined by the Supreme Court in a catena of judgments including Central Bureau of Investigation Vs. State of Rajasthan and Another, , Secretary, Minor Irrigation and Rural Engineering Services, U.P. and Others Vs. Sahngoo Ram Arya and Another, and most recently in the case of Sakiri Vasu Vs. State of U.P. and Others, .

6. Nothing apparently could be pointed out to suspect any irregularity in the investigation conducted by the police. There is no reason to discard the postmortem report as also the FSL report pertaining to viscera and handwriting of the deceased. Hence prima facie there is no irregularity in the police investigation and therefore, this is not a fit case to be referred to the CBI for investigation. Also the plea of the petitioners to constitute a medical board to analyze the cause of death of the deceased is not required as the medical evidence available on record is of recognized government agencies and there is nothing on record to suspect the same.

7. The powers of this court under article 226 should be invoked sparingly and only to prevent any serious miscarriage of justice. I do not see prima facie anything in this case warranting invoking of powers for the purposes prayed for.

8. The petition is accordingly dismissed without there being any orders as to costs