

C.A. Gopalan Vs. Inspector-general of Police, Crimes and ors.

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Court : Kerala

Decided On : Jan-15-1993

Reported in : 1993CriLJ1543

Judge : K.T. Thomas, J.

Acts : [Delhi Special Police Establishment Act, 1946](#) - Sections 5 and 6

Appeal No. : O.P. No. 3424 of 1992-G

Appellant : C.A. Gopalan

Respondent : inspector-general of Police, Crimes and ors.

Advocate for Def. : Augustine Joseph, Govt. Pleader for Respondent No. 1,; T.R. Raman Pillai, Adv. for Respondent No. 2 a

Advocate for Pet/Ap. : A. Balasurbramanian, Adv.

Judgement :

ORDER

K.T. Thomas, J.

1. Petitioner is the father of one Dr. Ajith Kumar who was burned to death in a dastardly manner while he was sleeping in his own bed room. This gruesome murder took place around 3 a.m. in the night on 23-3-1991. Police registered a

crime case and investigation was later taken over by the crime branch wing of the police. This Original Petition is filed by the petitioner seeking this Court's assistance to have the investigation entrusted to Central Bureau of Investigation (for short the CBI).

2. I have not so far issued a direction in any case for the C.B.I. take up investigation, since I did not come across any case where such an extraordinary course was necessary. But I am persuaded to make a departure in this case as I am inclined to think that this is a case which has to be investigated by a special agency like C.B. 1. Facts and circumstances of this case do warrant adoption of such a course.

3. Dr. Ajith Kumar and his brother Shaji Kumar were reported to be very bright students. Dr. Ajith Kumar took M.B.B.S. degree and completed House Surgency. Shaji Kumar completed his I.T.C. Course. On the fateful night both were sleeping in two different rooms adjacent to each other. During the old hours 3 a.m. the murderers pumped highly inflammable liquid into those bed rooms with the help of a hose pipe inserted through the ventilator and set ablaze the rooms to roast the inmates. Both Dr. Ajith Kumar and Shaji Kumar were burned, but Shaji Kumar some how survived the burns while Dr. Ajith Kumar succumbed to them.

4. Crime No. 36/91 of Peramangalam Police Station was registered and Circle Inspector of Police, Kunnamkulam, investigated the case. It was subsequently taken over by the CB CID (Thrissur). They renumbered the crime as Cr. No. 213/CR/91. At the instance of the Chief Minister, a special team of police headed by a D.I.G. was deputed by the Government of Kerala.

5. In spite of all such efforts, the maximum that could be achieved so far (as admitted by the police in the report submitted with this Original Petition) is far less than the minimum necessary for scoring a breakthrough in any investigation. The stand of the crime branch, in short, is this: 'The main suspect in this case is 622351-K. Sgt. Jaya-krishnan, the elder son of Krishnan Ezhu-thassan. He was transferred to Barackpore in West Bengal before the investigation was taken over by CB CID. He could not be interrogated by the CB CID. A report was submitted to Inspector-General of Police (Crimes), Thiruvananthapuram, on 4-9-1992 praying

for action with the Air Force authorities for obtaining his presence at Ernakulam or Thiravananthapuram for interrogation. It is hoped that by interrogating him valuable information and clues could be obtained regarding the crime'.

6. I do not think it would be advisable to express any comment on the trend of the investigation or reasons for suspecting the person mentioned above, lest, such comments may have implications at later stages of the case. Suffice it to say that the ramifications involved in the case can effectively be gone into by an agency which has better equipment and wider net work than the local police or even the crime branch wing of the State Police. It is rather unthinkable that the culprit (or culprits) involved in this dastardly murder case is allowed to escape from being caught.

7. After bestowing my anxious consideration in the matter, I have no manner of doubt that the investigation must be entrusted to an agency which is better equipped than the local police or crime branch wing of the State police. I am not told of any other agency than the C.B.I. which can be thought of for that task.

8. C.B.I. is an establishment governed by the provisions of the [Delhi Special Police Establishment Act, 1946](#) (for short 'the Act'). As per Section 6 of the Act, consent of the State Government is necessary for officers of the C.B.I. to exercise jurisdiction conferred under Section 5 thereof. However, Supreme Court has held in *State of W.B. v. Sampat Lal*, AIR 1985 SC 195: (1985 Cri LJ 516) that Section 6 of the Act does not apply when the Court directs C.B.I. to conduct the investigation. In *Gudalure M.J. Cherian v. Union of India*, (1992) 1 SCC 397 Supreme Court 'directed C.B.I. to take up the investigation' of a particular case without directing the State Government concerned to accord consent. In the light of the aforesaid principle and also the precedent cited above, it is not necessary to direct the State to give its consent for the C.B.I. to investigate. Reliefs can, thus, be moulded dehors the procedural trammels 'contained in the Act.

For the aforesaid reasons, I direct the C.B.I. to take over investigation in Crime No. 213/CR/91 and complete the same as expeditiously as possible I also direct the first Respondent to ensure through his subordinate officers concerned that all necessary assistance shall be afforded to the C.B.I. in the said investigation.

Original Petition is disposed of in the above terms.

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