



2025:KER:16968

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

&

THE HONOURABLE MR. JUSTICE JOBIN SEBASTIAN

MONDAY, THE 3RD DAY OF MARCH 2025 / 12TH PHALGUNA, 1946

WA NO. 193 OF 2025

AGAINST THE JUDGMENT DATED 06.01.2025 IN WP(CRL.) NO.1297

OF 2024 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

MANJUSHA K
AGED 49 YEARS, W/O NAVEEN BABU,
KARUVALLIL HOUSE, MALAYALAPUZHA THAZHAM P.O,
PATHANAMTHITTA DISTRICT, PIN - 689666

BY ADVS.
K.BALACHANDRAN (PN)
N.S.GOPAKUMAR
K.RAMAKUMAR (SR.)

RESPONDENTS/RESPONDENTS:

- 1 CENTRAL BUREAU OF INVESTIGATION
REPRESENTED BY ITS STANDING COUNSEL, HIGH COURT
OF KERALA, KOCHI, PIN - 682031
- 2 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031



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- 3 SHO, KANNUR TOWN POLICE STATION
KANNUR DISTRICT REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
COCHIN, PIN - 682031

- 4 INSPECTOR,
SPECIAL INVESTIGATION TEAM, CONSTITUTED FOR THE
INVESTIGATION OF CRIME NO. 1149/ 2024 OF KANNUR
POLICE STATION REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
COCHIN PIN - 682031

BY ADVS.

SRI.T.A.SHAJI, DGP

SRI.P.NARAYANAN, SPL. GP TO DGP AND ADDL. PP

SRI.SAJJU.S., SR. GP

SRI.SREELAL N.WARRIER SPL. PP CBI

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
11.02.2025, THE COURT ON 03.03.2025 DELIVERED THE
FOLLOWING:



C.R.

P.B.SURESH KUMAR & JOBIN SEBASTIAN, JJ.

Writ Appeal No.193 of 2025

Dated this the 3rd day of March, 2025

J U D G M E N T

P.B.Suresh Kumar, J.

“Nothing matters but the facts. Without them, the science of criminal investigation is nothing more than a guessing game” said the renowned filmmaker, Blake Edwards. These words, in our view, serve as the perfect prelude to this judgment.

2. The scrutiny that we are called upon to undertake in this case relates to the factual justification for the appellant in approaching this Court for transferring the investigation in the case registered in connection with the death of her husband, from the State Police to the Central Bureau of Investigation.



3. The husband of the appellant, the former Additional District Magistrate, Kannur, was found dead by hanging in his official quarters on 15.10.2024. The Kannur Town Police registered a crime within few hours under Section 194 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). In the course of the investigation, it was revealed that the deceased faced public humiliation at the hands of one P.P.Divya, the then President of the Kannur District Panchayat, who in her speech, during the farewell function of the deceased on the previous evening, accused the deceased of corruption in connection with the issuance of a No Objection Certificate (NOC) for opening a fuel outlet. She threatened to expose him within two days and recorded the visuals of that function to propagate the same through social media with an intent to publicly humiliate him, and left the function before the memento was handed over to the deceased. Alleging that the aforesaid acts of P.P. Divya forced the deceased to commit suicide, she was arrayed as the accused in the case by substituting Section 194 of BNSS with Section 108 of the Bharatiya Nyaya Sanhita, 2023 (BNS), and the investigation was being continued on that basis. While so, on 25.10.2024,



having regard to the nature of the case, a Special Investigation Team (SIT) headed by Sri.Ajit Kumar, IPS, District Police Chief was constituted by the concerned Inspector General of Police, and the investigation in the case is being continued thereafter by the SIT.

4. The appellant approached this Court with the writ petition at that stage seeking orders transferring the investigation to the Central Bureau of Investigation (CBI) alleging that there are circumstances which create doubt as to whether it was a case of suicide and the accused being a member of the District Committee of the Political Party, CPI(M) which is in power in the State, the SIT is attempting to conceal evidence. The Station House Officer, Kannur Town Police Station filed a counter affidavit in the writ petition on behalf of the respondents refuting the allegations in the writ petition contending that the SIT, which is led and supervised by high-ranking officers, has been conducting the investigation in a fair and impartial manner, adhering to established investigative protocols and that no exceptional circumstances are made out to entrust the investigation with the CBI.

5. The grounds highlighted by the appellant in



the writ petition to justify an approach to this Court for transferring the investigation are the following:

(i) The inquest was carried out before the petitioner and her family members had arrived at the scene though it is mandatory for the police officer to ensure the presence of close relatives during the inquest.

(ii) Necessary CCTV footage, especially from the premises of the Collectorate, the Railway Station and the official quarters of the deceased were not seized by the SIT.

(iii) No positive steps have been taken to collect the Call Data Records of the District Collector, Kannur, the accused, and Sri. Prasanth who applied for a NOC before the deceased to start a fuel outlet.

(iv) The scientific evidence, such as cellophane lifting from the palm of the deceased and the ligature allegedly used for hanging to confirm suicide, was not done with the assistance of the scientific expert.

(v) For a significant period, the SIT failed to record the statements of the deceased's relatives, including the petitioner.

(vi) The accused, who is a member of the District Committee of CPI(M) and State Joint Secretary of Janathipathya Mahila Association, has the strong backing of the ruling party, which naturally metamorphoses into influence with the police investigating the case.

(vii) There could be a possibility that the deceased had left a suicide note, but it was suppressed by the investigation team to favour the accused.



(viii) The very constitution of the SIT is not in accordance with law.

6. The learned Single Judge called for the case diary and found that the SIT has taken, among others, the following steps as part of the investigation:

i. Conducted inquest and prepared an inquest report in the presence of five independent witnesses, including revenue officials.

ii. Prepared scene mahazar and submitted it before the Court.

iii. Seized cellophane pressings collected from the left sole, right sole, right palm, left palm, and neck of the body of the deceased, from the chair and bed, part of the nylon rope collected from the window grill, sealed in eight packets with collection certificate and sample seal impression certificate, produced the same before the court, and forwarded for Forensic Examination.

iv. Lifted chance prints from the place of occurrence with the help of the District Fingerprint Bureau.

v. Seized the apparel that the deceased wore during the incident, collected ligature material from the ceiling fan, submitted the same before the court and forwarded it for forensic examination.

vi. Seized two smart mobile phones from the scene, examined the same with the assistance of Cyber Cell, Kannur, collected call history, e-mail details, G-Pay details, social media account details and Google Timeline and forwarded the same to the



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court with Section 63 BSA certificate.

vii. Took still photos and videographed body inquest formalities by the department photographer.

viii. The CDRs of mobile phone numbers (7907524373 and 9447001921 used by the deceased) were collected and verified.

ix. The CDRs of the mobile phone numbers of the accused (9947419446, 8281040013) and Sri Prasanth (9074969381, 9497300361) were collected and verified.

x. Seized the DVD containing the audio and video visuals of the farewell party arranged by the Collectorate Staff Council to the deceased on 14/10/2024 which was covered by Cameraman of Kannur Vision, Yadu P. and produced the same before the court with Section 63 BSA certificate.

xi. Seized the memory card containing the audio and video visuals of the farewell party arranged by the Collectorate Staff Council to the deceased on 14/10/2024, covered by Naveen A., the Cameraman of Kannur Vision and produced the same before the court with Section 63 BSA Certificate.

xii. Seized the bank account statement of the deceased.

xiii. Seized the file containing the application filed by Sri. Prasanth for starting the BPCL petroleum retail outlet at Cherankunnu in Chuzhali village.

xiv. Seized certified copy of the lease deed of the property for starting BPCL petroleum retail outlet at Cherankunnu entered between landlord Father Paul Edathinakath and the applicant Prasanth.



xv. Seized the copy of the no-objection application submitted by Sri. Prasanth for setting up a BPCL petroleum retail outlet.

xvi. Collected and verified the bank account statements of Sri. Prasanth.

xvii. Seized the key and spare key of the official quarters of the deceased as per the seizure Mahazar.

xviii. Prepared the mahazar of the Collectorate Conference Hall, where the farewell party was arranged for the deceased by the Collectorate Staff Council on 14/10/2024.

xix. Collected and seized as per seizure mahazar, the available CCTV footages grabbing movement of the deceased from the Collectorate, Railway Station and near Muneeswaram Kovil.

xx. The statements of the material witnesses, such as the petitioner, her children, brother, relatives, ADM, staff at the Collectorate who attended the farewell function, the doctors who conducted the autopsy, officials, police officers, etc., were recorded.

7. After referring to the settled principles on the point and taking note of the various steps taken by the SIT in the course of their investigation, the learned Single Judge held that the grounds above mentioned are not sufficient to transfer the investigation from the State Police to the CBI. Nevertheless, the learned Single Judge opined that although the grievances expounded by the appellant fall short of



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justifying a CBI probe, the said grievances deserve meaningful consideration by the SIT as the right to a fair investigation and trial applies to both the accused as also the victim and that the victim has, in addition, unbridled participatory rights from the stage of investigation also. Consequently, the writ petition was disposed of with the following directions:

“(i) The prayer sought in the writ petition to transfer the investigation in Crime No.1149/2024 of Kannur Town Police Station from SIT to CBI is disallowed.

(ii) The SIT shall carry out and complete the investigation swiftly, efficaciously, with due diligence and in a free and fair manner.

(iii) The DIG, Kannur Range, shall scrupulously monitor and oversee the investigation being conducted by the SIT and ensure that it proceeds properly, effectively and legally.

(iv) The SIT shall submit periodical reports to DIG showing the progress of the investigation.

(v) The SIT shall inform the progress of the investigation to the petitioner as contemplated under Section 193(3)(ii) of BNSS.

(vi) The SIT shall consider and probe into the grievances highlighted by the petitioner in this writ petition.

(vii) The SIT shall also investigate the possibility of a homicidal hanging as apprehended by the petitioner.

(viii) After the completion of the investigation, the draft final



report shall be submitted before the DIG for vetting and approval.

(ix) The final report shall be filed only after getting approval from the DIG.”

As noted, among others, it was directed by the learned Single Judge that the SIT shall also investigate the possibility of a homicidal hanging as apprehended by the appellant; that the DIG, Kannur Range shall scrupulously monitor and oversee the investigation being conducted by the SIT and ensure that the same proceeds properly, effectively and legally and that the SIT shall inform the progress of the investigation to the appellant also. As noted, the appellant is aggrieved by the decision of the learned Single Judge in the writ petition.

8. The writ appeal was initially heard and taken for orders on 06.02.2025. Later, after changing the counsel, the appellant preferred an interlocutory application as I.A.No. 1 of 2025 seeking orders listing the case for further arguments, alleging that the counsel who argued the matter on 06.02.2025 has made some concessions without the instructions of the appellant. In the light of the said interlocutory application, the matter was listed on 11.02.2025 for further hearing and on the said day, we heard the learned Senior Counsel,



Sri.K.Ramakumar for the appellant. Sri.T.A.Shaji, the learned Director General of Prosecution addressed arguments on behalf of the respondents. We have also called for and perused the Case Diary.

9. Although no inflexible guidelines can be laid down for the purpose of transferring the investigation, there cannot be any doubt that the power to order transfer of investigation shall not be exercised as a matter of routine or merely because a party has levelled some allegations against the State Police. The extraordinary power is one to be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations. Even though it is not necessary that the appellant seeking an order transferring the investigation in a given case has to make out a cast-iron case of abuse or neglect on the part of the State Police, the appellant has to certainly make out a case that the investigation is required to be transferred to provide credibility and instil confidence in the investigation or that such a course of action is necessary for doing complete justice. As noted, the case of the appellant, in essence, is that there are



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circumstances which create doubt as to whether the case is one of suicide and the accused being a member of one of the District Committees of the Political Party, CPI(M) which is in power in the State, the investigation needs to be transferred. The grounds referred to in paragraph 4 above were highlighted by the appellant in the writ petition to substantiate the contention that if the investigation is not transferred to the CBI, the present investigating agency would not only conceal evidence, but also aid the accused to fabricate evidence.

10. As noted, it was revealed during investigation that the deceased faced public humiliation during his farewell function on the previous day of his death at the hands of the accused and it is on the basis of the materials collected in this regard that the original provision under which the case was registered was altered and Section 108 BNS was added. According to the appellant, the possibility of homicidal hanging also cannot be ruled out on the facts of the case and that there is no investigation on those lines on account of the political influence of the accused. As noted, the investigation in the case is being conducted by a team namely, SIT consisting of more than one IPS officer. The appellant has no case that the



officers constituting SIT are incompetent to investigate a case of the instant nature. The appellant has also no case that the officers constituting the SIT would face any legal impediments in conducting the investigation effectively. The appellant has not raised any allegations of *mala fides* against any of the officers in the SIT. Inasmuch as the accused is a member of one of the political parties which is in power in the State, who was holding some official positions on that basis, the appellant apprehends that the leaders of the respective political party would influence the officers in the SIT and in case of that event, the officers would yield to their dictates.

11. Let us now see the circumstances pointed out by the learned Senior Counsel for the appellant on the basis of which the appellant contends that she entertains a doubt as to whether the case on hand is one of suicide. The following are the circumstances:

(a) Even though the body of the deceased was seen by his driver at 8 a.m. on 15.10.2024, the matter was reported to the police by him only at 9.40 a.m.

(b) Even though the occurrence was reported to the police at 9.40 a.m., the corresponding entry was made in the General Diary maintained at the police station only



at 10 a.m.

(c) The police has concluded in the First Information Report itself, that it is a case of suicide.

(d) The inquest was held only by the Station House Officer and not by a Superior Officer.

(e) Even though the officer who held the inquest was obliged to inform the relatives of the deceased before commencement of the inquest, the inquest was held without informing them.

(f) The post-mortem was conducted before the arrival of the close relatives of the deceased.

(g) The inquest report would show that at the time of commencement of the inquest, the body was found hanging in such a fashion that the feet of the deceased were touching the floor.

The circumstances aforesaid, according to us, cannot be the basis of a legitimate apprehension that the investigation in the case will not be conducted in a fair and impartial manner. No doubt, there is a delay of 1 hour and 40 minutes in reporting the death to the police. The first informant being only the driver of the deceased, and in the absence of any specific allegation of malice against him, regard being had to common



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course of natural events and human conduct particularly in moments of shock and distress, we do not think, *prima facie*, that the same is a ground to suspect that the case on hand is not one of suicide. Inasmuch as the First Information Report has been lodged at 9.40 a.m. itself, the delay in causing an appropriate entry in the General Diary maintained at the Police Station, may not be of any significance. Entry 12 in the First Information Report is the entry where the substance of the first information is recorded. It is stated therein that the first informant does not entertain a doubt about the death. It is placing reliance on the said statement that it was contended by the learned Senior Counsel that the police has concluded in the First Information Report itself, that it is a case of suicide. We fail to understand as to how it could be argued based on the contents of the said entry that the police had concluded that it is a case of suicide, for the same does not preclude in any manner, an independent and impartial investigation as to the cause of death. No doubt, the inquest was held only by the Station House Officer. The appellant does not have a case that the said officer is either incompetent or unauthorised to hold the inquest. Section 196(5) of the BNSS only provides that,



wherever practicable, the officer holding an inquest shall inform the relatives of the deceased whose names and addresses are known, and shall allow them to remain present at the inquiry. In the light of the said provision, it is not mandatory that the inquest shall be held only in the presence of the relatives. Further, a perusal of the case diary indicates that the inquest was held at 10.15 a.m., with the permission of the relatives of the deceased as they informed the officers that they may not be able to reach the scene of occurrence within a reasonable time. There are no materials before us to arrive at a conclusion that the endorsement aforesaid in the case diary is incorrect. The same is the case as regards the post-mortem also. True, the inquest report would show that at the time of commencement of the inquest, the body was found hanging in such a fashion that the feet of the deceased were touching the floor, but the post-mortem findings in the case are consistent with death due to hanging. As noted, the SIT is yet to come to the conclusion as to whether the case on hand is one of suicide or homicide. The investigation in the case remains ongoing. That apart, a specific direction was also issued by the learned Single Judge in the impugned judgment that the SIT shall



investigate the possibility of homicidal hanging as well. In other words, the said circumstance also cannot be a legitimate basis for the suspicion that the case on hand is not a case of suicide.

12. This is not a case where the accusation is against top officials of the State Government or State Police who would be in a position to influence the investigation, when the investigation is conducted by their subordinate officers. This is also not a case where the CBI, or for that matter any other investigating agency, would be in an advantageous position to carry on the investigation in a fair and impartial manner. This is also not a case where the death of Naveen Babu has political repercussions for the political leaders to go overboard and interfere with the investigation to protect the image of the political party. On the other hand, this is a case which could be investigated by any agency, adhering to established investigative protocols. No doubt, the investigation in every case should not only be credible, but also appear to be credible. We have already held that there is no basis for any legitimate apprehension that the investigation in the case would not be conducted in a fair and impartial manner.



Investigation in a case cannot be transferred merely for the reason that the victim entertains an apprehension that the investigation will not be conducted in a fair and impartial manner. In order to transfer the investigation, the apprehension shall be reasonable and not imaginary. A reasonable apprehension means that the apprehension is based on concrete facts and circumstances that would lead a reasonable person to believe that the investigation is compromised. The personal feelings of the victim, howsoever genuine, is not enough to warrant a transfer. It is apposite in this regard to refer to a passage from the judgment of the Apex Court in **Suneetha Narreddy v. CBI**, (2023) 11 SCC 755. The passage reads thus:

“10. It is true that as per the settled position of law and even as observed and held by this Court in *Amarinder Singh* [*Amarinder Singh v. Parkash Singh Badal*, (2009) 6 SCC 260 : (2009) 2 SCC (Cri) 971] for transfer of a criminal case, there must be a reasonable apprehension on the part of the party to a case that justice may not be done. It is also observed in the said decision that it is one of the principles of administration of justice that justice should not only be done but it should be seen to be done. As observed by this Court in the aforesaid decision, however, the Court has to see whether the apprehension alleged is reasonable or not. The apprehension must not only be imaginary, but must appear to the court to be a reasonable apprehension.”



If the principle aforesaid is not adopted while considering the requests for transferring investigation, the public would think that the system can be easily swayed by outside influence and consequently, lose faith in the normal legal process. They would also start thinking that investigations could be manipulated or that the system is not that reliable. That apart, if transfers of investigations are too frequent, this can also lead to a loss of trust in the criminal justice system, both from the public point of view and also from the point of view of those who rely on the integrity of the legal process. No doubt, in the pursuit of truth, the doubts and apprehensions that occur should not be dismissed, neither should the same be allowed to paralyse us. Needless to say, the writ appeal is without merits and the same is accordingly, dismissed.

Sd/-

P.B.SURESH KUMAR, JUDGE.

Sd/-

JOBIN SEBASTIAN, JUDGE.