

A SUNEETHA NARREDDY

V.

Y S AVINASH REDDY & ANR.

(Criminal Appeal No. 1251 of 2023)

B APRIL 24, 2023

[DR. DHANANJAYA Y CHANDRACHUD AND
PAMIDIGHANTAM SRI NARASIMHA, JJ.]

Investigation – Victim-deceased was found murdered – CBI

- C submitted a chargesheet and supplementary chargesheet naming five persons – CBI issued summons to the first respondent – First respondent appeared before the CBI on several occasions – First respondent filed writ petition – On 18.04.2023, the High Court (i) granted an ad interim stay of arrest; and (ii) directed that the examination before the CBI in the course of the investigation shall
 - D be “in printed/written form” during the course of which a questionnaire may also be handed over to the first respondent – On appeal, held: The abovementioned order would stultify the investigation – There is absolutely no warrant for the High Court to direct that the investigation of a person who has been interrogated as a suspect in the conspiracy should be in the printed or written form – Similarly, it is wholly inappropriate for the High Court to observe that the questionnaire may also be handed over to the respondent – Such orders of the High Court are liable to gravely prejudice the course of investigation – Impugned order of the High Court set aside.
 - F CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 1251 of 2023.

From the Judgment and Order dated 18.04.2023 of the High Court for the State of Telangana at Hyderabad in CRLP No. 3798 of 2023.

G Sidharth Luthra, Sr. Adv., Ms. Jesal Wahi, Anmol Kheta, Kumar Kashyap, Advs. for the Appellant.

Tushar Mehta, SG, Mukul Rohatgi, Ranjit Kumar, Sr. Advs., Mukund P. Unny, Siddhartha Sarma, Advs. for the Respondents.

The Judgment of the Court was delivered by

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DR. DHANANJAYA Y CHANDRACHUD, CJI

1. Leave granted.

2. The appeal arises from an order dated 18 April 2023 of a single Judge of the High Court for the State of Telangana in Criminal Petition No 3798 of 2023. The High Court was moved with an application for the grant of Anticipatory bail to the first respondent under Section 438 of the Code of Criminal Procedure 1973¹ in connection with RC-04(S)/2020/SC-III/ND.

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3. The deceased, YS Vivekananda Reddy, was found to have been murdered at his house at Pulivendula, Kadapa District of Andhra Pradesh on the night intervening 14/15 March 2019. The deceased was the brother of Shri YS Rajasekhara Reddy, former Chief Minister of the undivided State of Andhra Pradesh.

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4. A complaint was lodged by MV Krishna Reddy at 8.00 am on 15 March 2019 at Pulivendula Urban Police Station which resulted in the registration of Crime No 84/2019.

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5. A Special Investigating Team was constituted by the Director General of Police headed by the Additional Director General of Police (CID). The Special Investigating Team was reconstituted on 13 June 2019 and 10 October 2019.

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6. The appellant is the daughter of the deceased. The appellant instituted a petition before the High Court seeking a transfer of the investigation to the Central Bureau of Investigation².

7. On 11 March 2020, the High Court directed that the CBI shall conduct further investigation in CR No 84/2019 of the Pulivendula Urban Police Station.

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8. The CBI registered the crime as RC-04(S)/2020/SC-III/ND on 9 July 2020.

9. On 21 October 2021, the CBI submitted a charge sheet before the court of the Judicial Magistrate, First Class, Pulivendula naming four persons, namely, Yerra Gangi Reddy (A1), Yadati Sunil Yadav (A2), Gajjala Uma Shankar Reddy (A3) and Shaik Dastagiri (A4) for commission of

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¹ "CrPC"

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² "CBI"

- A offences punishable under Sections 302 and 120-B of the Indian Penal Code 1860. The charge sheet submitted by the CBI named among others, the first respondent, his father and two other persons as suspects in the conspiracy to commit the murder of the deceased.
- B 10. On 17 November 2021, the CBI arrested D. Siva Shankar Reddy.
- C 12. On 31 January 2022, the CBI filed a supplementary charge sheet naming D. Siva Shankar Reddy as A5.
- D 13. Apprehending that there was a serious danger to the life of the witnesses and that false complaints were being filed against the officers of the CBI, the appellant and her mother moved this Court seeking directions for the transfer of the trial from the CBI Special Court Kadapa, Andhra Pradesh to the CBI Special Court in Hyderabad or Delhi and for a direction to the CBI to conclude the investigation in a time bound manner.
- E 14. By an order dated 29 November 2022, this Court has transferred the trial from Kadapa in Andhra Pradesh to Hyderabad.
- F 15. In the meantime, the CBI issued summons to the first respondent to appear before it on 23 January 2023. A fresh notice was issued to the first respondent to appear on 16 February 2023 and again on 6 March 2023. The first respondent has appeared before the CBI on several occasions.
- G 16. The first respondent instituted a Writ Petition before the High Court. On 10 March 2023, the High Court directed the CBI to produce the entire record before it and directed it not to take any coercive steps against the first respondent, while ordering him to appear before the Investigating Officer on 14 March 2023.
- H 17. On 13 March 2023, the High Court reserved orders. On 17 March 2023, the High Court disposed of IA Nos 1 and 2 in the Writ Petition holding that it was not inclined to stay the examination of the first respondent under Section 161 of the CrPC. While vacating the interim order, the High Court, however, directed that the first respondent shall be examined within the sight of his advocate.
- I 18. On 14 April 2023, the CBI arrested Gajjala Uday Kumar Reddy.
- J 19. On 15 April 2023, the father of the first respondent was arrested by the CBI.

20. On 16 April 2023, the CBI served a notice under Section 160 of the CrPC on the first respondent to appear in its office on 17 April 2023. A

21. The first respondent moved an application for anticipatory bail.

22. The High Court by its order dated 18 April, 2023 directed that the first respondent shall attend the office of the CBI between 19 and 25 April 2023; the questions and answers shall be in the printed/written form and a questionnaire may also be handed over to the first respondent. In the meantime, the High Court has directed that the first respondent shall not be arrested and directed the proceedings to stand over to 25 April, 2023. B C

23. Notice was issued in these proceedings on 21 April 2023. The first respondent accepted notice through learned counsel and has filed a counter affidavit in these proceedings.

24. We have heard Mr Sidharth Luthra, senior counsel appearing on behalf of the appellant, Mr Mukul Rohatgi and Mr Ranjit Kumar, senior counsel appearing on behalf of the first respondent and Mr Tushar Mehta, Solicitor General of India, appearing on behalf of the second respondent. D

25. During the course of the proceedings, the attention of the Court has been drawn to the affidavit which was filed by the CBI in the writ proceedings. Paragraphs 9, 16 and 45 of the affidavit filed by CBI are extracted below :- E

“9 That during the course of further investigation role of a close associate of Petitioner/Y.S. Avinash Reddy, namely D. Siva Shankar Reddy (A-5 and then General Secretary YSRCP, Andhra Pradesh) was found in participation of conspiracy for murder of Y.S. Vivekananda Reddy and also in the destruction of evidence at the Scene of Crime. Further, it was also found that accused T. Gangi Reddy @ Yerra Gangi Reddy (A-1) also had actively participated in the destruction of evidence at the Scene of Crime besides act of criminal intimidation to one of the eye-witnesses namely B. Ranganna (Watchman of the house of deceased). Therefore, a Supplementary Charge-sheet dated 31.01.2022 u/s 173(8) Cr. PC was filed before Ld. Court of Judicial F G H

- A Magistrate - First Class, Pulivendula against accused D. Siva Shankar Reddy (A-5) u/s 201 & 120-B r/w 302 & 201 IPC. Further, accused T. Gangi Reddy @ Yerra Gangi Reddy (A-1) was also charge sheeted for the offences u/s 201, 506 & 120-B r/w 201 IPC in continuation to the first charge-sheet filed on 26.10.2021 by CBI.

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C 16. That during further investigation role of Petitioner/ Y.S. Avinash Reddy and others have emerged. Consequent to Writ Petition filed by the Petitioner/Y.S. Avinash Reddy, in compliance of the order dated 10.3.2023 of this Hon'ble Court, the evidences in respect of the role of the Petitioner in murder of the deceased Shri YS Vivekananda Reddy has been submitted before this Hon'ble Court in sealed cover as the further investigation in the case is still going on.

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E 45. In reply to Para 14, it is submitted that both acts involved in the conspiracy i.e., the act of execution of murder and the acts of destruction of evidence at SoC were integral part of larger conspiracy, wherein none other than the petitioner Y S Avinash Reddy was a beneficiary, in which the execution of murder was carried out by the accused namely Yerra Gangi Reddy (A-1), Yadati Sunil Yadav (A-2), Gajjala Uma Sankar Reddy (A-3), and Shaikh Dasthgiri(A-4), whereas the second part of the act i.e destruction of evidence at the Scene of Crime was carried out at the behest of petitioner Y S Avinash Reddy, Y S Bhaskar Reddy, D. Siva Shankar Reddy (A-5) and Yerra Gangi Reddy (A-1) and in their presence and on their instructions, which is evident from the statements of several eye witnesses. Therefore, averments made in this Para attributing motive on the part of Smt Suneetha Reddy and her husband Shri N.Raja Shekar Reddy behind the murder of Y.S. Vivekananda Reddy are baseless. Though during investigation, it has revealed that Shri Y.S. Vivekananda Reddy had married Smt. Shaikh Shameem during the year 2010 and maintaining relationship with her, that about this marriage family members of Y.S. Vivekananda Reddy, especially Shri N. Siva Prakash Reddy,

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were not happy, however, during investigation, no evidence has emerged for any of them (i.e. Smt. Suneetha Reddy, Shri N. Raja Shekar Reddy or Shri N. Siva Prakash Reddy) being involved in the conspiracy behind murder of Shri Y.S. Vivekananda Reddy.” A

26. At this stage, it is also material to extract from the order dated 18 April 2023, in the remand proceedings before the Principal Special Judge for CBI cases, Hyderabad, pertaining to the co-accused : B

“(v) The petitioner/complainant further averred that during investigation Shaik Dasthgiri (A-4, turned approver) revealed that after the murder in the intervening night of 14-15.03.2019, Yerra Gangi Reddy called Shaik Dasthgiri and other two co-accused on 15.03.2019 at about 5.20 AM, and told them not to worry. He also told them that he had talked with Y.S. Bhaskar Reddy and others, they will handle everything and they will receive money later. The subsequent act of floating of story of death of the deceased due to heart attack and destruction of scene of crime in the presence of Y.S. Avinash Reddy, Y.S. Bhaskar Reddy, D. Siva Shankar Reddy, Gajjala Uday Kumar Reddy and Y. Gangi Reddy corroborates the disclosure of statement of Shaik Dasthgiri. C D E

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(vii) The petitioner/complainant further averred that Shaik Dasthgiri (A-4, turned approver) further revealed that on the basis of assurance extended by Yerra Gangi Reddy/A-1 to the assailants that they need not to worry about the police as all proofs of murder have been destroyed and everything has been cleaned, the assailants did not reveal the truth when local police called them for enquiry. Further, in the early morning of 15.03.2019, accused Gajjala Uday Kumar Reddy, D. Siva Shankar Reddy/A-5 and others were already present at the house of Sri YS Bhaskar Reddy/ Y.S. Vivekananda Reddy and prepared for immediately proceeding to the house of YS Vivekananda Reddy to manage the scene of crime as conveyed by T. Gangi Reddy @ Y. Gangi Reddy/A-1 to three other co-assailants including F G H

- A Sheikh Dasthgiri (A-4 turned approver) at 5.20 AM at his residence.
- (viii) The petitioner/complainant further averred that Sri N. Siva Prakash Reddy called from his mobile phone to Sri Y.S. Avinash Reddy at his mobile phone at 06:26:15 AM and informed him about the death of Sri Y.S. Vivekananda Reddy. Thereafter, Sri Y.S. Avinash Reddy accompanied by D. Siva Shankar Reddy/A-5, Gajjala Uday Kumar Reddy, E.C. Surendra Reddy, Prashant Reddy, Raghava Reddy and Ramana Reddy (both Pas of Y.S. Avinash Reddy) immediately reached in three to four vehicles at the house of Sri Y.S. Vivekananda Reddy. The forensic analysis of Google takeout of accused Gajjala Uday Kumar Reddy carried out by CFSL, New Delhi reveals that location of mobile phone of Gajjala Uday Kumar Reddy was inside the house of Sri Y.S. Bhaskar Reddy at 06:25:25 AM and just two minutes after at 06:27:28 AM, location of his mobile phone was found outside the house of Sri Y.S. vivekananda Reddy and thereafter, he was found present inside the house of Sri Y.S. Vivekananda Reddy at 6:29 to 6:31 AM.
- (ix) The petitioner/complainant further averred that Y.S. Avinash Reddy and other persons accompanied with him after entering in the house of Sri Y.S. Vivekananda Reddy had seen the blood present in the bedroom and dead body lying in pool of blood in the bathroom with visible gruesome injuries on the head. Thereafter, Sri Y.S. Avinash Reddy using mobile on one number (9000006243) of his PA, Raghava Reddy made a call to Sri J. Shankaraiah, (92121100544), then Circle Inspector, Pullivendula and informed him that Sri Y.S. Vivekananda Reddy had died due to heart attach and heavy blood vomiting, which is present at bedroom and bathroom. He further told Sri J. Shjankaraiah to send three to four constables for bandobast. It is evident that Sri Y.S. Avinash Reddy had called police only after seeing the dead body of Sri Y.S. Vivekananda Reddy and discussing the matter with D. Siva Shankar Reddy. It indicates that the fake story of heart attack and blood vomiting was floated in a pre-meditated manner to give it a colour of natural death as a part of conspiracy.”

27. In this backdrop, the issue which arises for consideration is as to whether the High Court was justified in (i) granting an ad interim stay of arrest; and (ii) directing that the examination before the CBI in the course of the investigation shall be “in printed/written form” during the course of which a questionnaire may also be handed over to the first respondent.

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28. It may be noted at this stage, that the High Court was still to hear the application for the grant of anticipatory bail. When the impugned order was passed on 18 April 2023, the High Court was moved with an application for ad interim stay of arrest pending the disposal of the application for anticipatory bail. Even at that stage, the High Court has proceeded to observe that :

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“15. The CBI, during the course of investigation has found that there are multiple motives for the murder of the deceased. One of the motives as attributed to this petitioner is regarding political aspirations and that the deceased may come in his way. The Learned counsel for petitioner submitted that it is not in dispute that the deceased canvassed for the petitioner and this is the second time that the petitioner was elected. However, according to the charge sheet, though there were separate motives and grudges, the accused had come together to do away with the deceased.

16. The case is still under investigation and multiple motives are suggested. The motive attributed to this petitioner is on the basis of the confession of A4 who according to him was informed by A1 that big persons are involved and named this petitioner along with A7 and two others. There is no other evidence apart from what was available in the year 2021, however this petitioner was not arrested or examined until January this year. It is not the case that this petitioner was absconding. The CBI has chosen not to arrest this petitioner along with A7 but issued a 160 CRPC notice. Since there were allegations of bias, fabrication of evidence and false implication, the Hon’ble Supreme Court directed change of the investigating officer according to the Counsel for the petitioner. The deadline imposed by the Hon’ble Supreme Court for concluding investigation is 30th April, 2023.”

- A 29. The above finding of the High Court at this stage is premature, particularly in the context of what has been stated by the CBI on affidavit. Having due regard to what has been stated by the CBI in its affidavit, we are clearly of the view that the High Court has misapplied itself and passed an extraordinary order in terms of the directions which have been issued. The High Court has observed that the first respondent may not appear for investigation apprehending arrest and seek alternative remedies. While directing that the first respondent should be available for questioning “along with A6 and A7 who are given police custody, and the High Court has directed that the first respondent shall attend the office of the CBI between 19 and 25 April 2023 and that (i) the question
- B and answer shall be in printed/written form; and (ii) the questionnaire may also be handed over to the respondent.

- C 30. An order of this nature would stultify the investigation. There is absolutely no warrant for the High Court to direct that the investigation of a person who has been interrogated as a suspect in the conspiracy
- D should be in the printed or written form. Similarly, it is wholly inappropriate for the High Court to observe that the questionnaire may also be handed over to the respondent. Such orders of the High Court are liable to gravely prejudice the course of investigation. Particularly at this stage when the CBI is to fully investigate the crime and the role of several accused who do not form a part of the charge sheet as submitted, we are of the view
- E that the directions issued by the High Court were unwarranted.

31. We accordingly allow the appeal and set aside the impugned order of the High Court dated 18 April 2023.

- F 32. Since the application for anticipatory bail before the High Court is pending consideration, we clarify that the observations in this order shall not come in the way of the High Court evaluating the application.

- G 33. Having regard to the developments which have intervened, we are of the considered view that the time for the completion of investigation by the CBI should be extended and we accordingly extend it until 30 June 2023.