



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Reserved on: 09th April, 2025
Pronounced on: 28th June, 2025*

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W.P.(CRL) 1077/2019 & , CRL.M.A. 32377/2023

K. VANITHA

W/o K. Devender

R/o Flat No.8-2-293/9/B,

Plot No.9, Phase III, Jeet Avenue Apartment,

Flat 201, Kamalapuri Colony, Hyderabad.

.....Petitioner

Through: Mr. Trideep Pais, Sr. Advocate with
Mr. Robin George and Ms. Saloni
Ambastha, Advocates.

Versus

1. **STATE OF NCT OF DELHI**

Through SHO

Chittaranjan park PS.

2. **MINISTRY OF HOME AFFAIRS**

North Block, New Delhi-110001.

3. **CENTRAL BUREAU OF INVESTIGATION**

CGO Complex,

New Delhi.

.....Respondents

Through: Mr. Amol Sinha, Ld. ASC for State
with Mr. Kshitiz Garg, Mr. Nitish
Dhawan, Mr. Rahul Kochar, Ms.
Chavi Lazarus and Ms. Sanskriti
Nimbekar, Advocates and with SI
Narender P.S. C.R. Park.
Mr. Ripudaman Bhardwaj, SPP, CBI
with Mr. Kushagra Kumar, Mr.
Abhinav Bhardwaj and Mr. Amit
Kumar Rana, Advocates.



CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Writ Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as Cr.P.C.*) has been filed by the Petitioner, K. Vanitha, for issuance of directions to transfer the investigations of DD No.-4A dated 07.02.2019 registered at Police Station Chittaranjan Park to Respondent No.3, Central Bureau of Investigation (CBI).
2. The case of the Petitioner, Smt. K. Vanitha, relates to unfortunate demise of her son Late Sh. Yogesh K. Jude, in suspicious circumstances. The Complainant, Smt. K. Vanitha, a widow who with her own perseverance and hard work, singlehandedly brought up her two children. She is now suffering from various illnesses on account of old age and has been put to great disadvantage on account of shocking death of her son Sh. Yogesh K Jude.
3. The *facts as narrated by* her is that her son, Sh. Yogesh K Jude (34 years old) had visited Delhi on 06.02.2019 in regard to award of a commercial Contract for the promotion of the sports event and also to obtain repayment of the sum of money which had been loaned to Sh. Vishal Agarwal, his brother-in-law. He was supposed to return on the same night i.e., 06.02.2019, but he decided to stay overnight in the house of his co-brother-in-law, Navneet at C.R. Park, New Delhi. Wife Smt. Aarti and two



children along with Sh. Navneet and Sh. Vishal Agarwal, his brother-in-law were also present in the house on that night.

4. It is asserted that on 07.02.2019 at about 09:00 A.M., Smt. Aparna wife of deceased, Sh. Yogesh received a call from her brother Sh. Vishal that Yogesh has fallen to his death from the third-floor balcony of the house of Sh. Navneet to the second-floor balcony of the same building. Vishal has also shared pictures of the deceased's body with several people, with the Petitioner as well. Sh. Vishal has also sent these pictures to one Kartik who allegedly had deep political connections with many people including with the PMO.

5. Petitioner immediately flew from Hyderabad to Delhi along with Smt. Aparna and the maternal aunt, on 07.02.2019. The post mortem of the deceased, Sh. Yogesh was conducted on the same day. Thereafter, they took the body for cremation according to Christian rites, at Hyderabad.

6. The Petitioner claimed that three individuals namely Navneet, Aarti and Vishal Agarwal were admittedly in the company of the deceased, Sh. Yogesh in the intervening night of 6/7.02.2019. They were the ones who first discovered the dead body in the morning of 07.02.2019 in the balcony of the second floor of the same building. Their statements were recorded wherein they all reiterated that they were there along with the deceased Sh. Yogesh and had drinks in the night of 06.02.2019. Sh. Navneet and Sh. Vishal went to sleep in their respective bed rooms at around 11:30 P.M. Smt. Aarti thereafter, left to feed her infant child at around 12:30 A.M and dozed off in the bedroom along with the child. In the morning Smt. Aarti and Sh. Vishal allegedly woke up and assumed their daily chores including



dropping their child to the school. It was only at about 08:30 A.M. when Sh. Navneet woke up and was unable to trace the deceased Sh. Yogesh in the house, he searched for him and ultimately found the dead body lying below in the balcony of the second floor Flat. They rushed and called the Ambulance and D.D. No.04A dated 07.02.2019 P.S. C.R. Park was registered.

7. The Petitioner, Smt. K. Vanitha asserted that she was not informed immediately about the demise of Sh. Yogesh. According to the statements, the three aforesaid persons assumed that deceased Sh. Yogesh had consumed more liquor after they all had gone off to sleep, as half bottle of Bacardi lying in Navneet's Bar, which according to them was sealed, when they left for sleep on 06.02.2019. The Petitioner further asserted that intriguingly, Sh. Yogesh's slippers, spectacles and mobile phones found on the floor of the third-floor balcony. The glass in which he had allegedly consumed alcohol and a cigarette lighter was lying on a small counter above the air conditioner.

8. The Petitioner had asserted that on her return to Delhi on 13.02.2019, she met Sub Inspector Ram Singh, who gave her a copy of *Post Mortem Report*, but refused to give any other documents despite repeated requests.

9. The Petitioner has pointed out *various suspicious circumstances*. The first circumstance asserted was that *there was something suspicious in the behaviour* of the three persons namely Navneet, Arti and Vishal who were uncomfortable on the last rites of the deceased, Sh. Yogesh. The circumstances for such conduct was attributed to extremely strained relationship between Sh. Vishal and deceased, Sh. Yogesh deceased, who



had been instrumental in obtaining a significant sum of money as a loan from his relative for Vishal, about two years ago. However, Sh. Vishal had delayed the return of the significant sum of money due. Sh. Vishal had even issued a cheque for repayment of debt, which on presentation was dishonoured.

10. ***The second circumstance was the manner of fall and consequent demise.*** She stated that the height difference between the third and the second-floor balcony was not more than 12 feet and that any fall could not have been fatal. Deceased was about 6 feet tall and was well built. It is unfathomable as to how a six feet man could die from fall from such small altitude. Furthermore, the width of the balcony was merely 2 feet, but the body was found lying in a *prone position* with face down, as per the photographs circulated by Sh. Vishal Agarwal, clearly suggesting that someone had laid the deceased, Yogesh in that position. The theory of deceased having fallen to his death from the third-floor balcony, did not inspire any confidence.

11. The next circumstance of suspicion claimed by the Petitioner, Smt. K. Vanitha is the ***post mortem lividity***. She had claimed that as per the photographs and as stated by the three persons, the deceased, Yogesh was found dead in a *prone position i.e. lying on stomach*. However, this is not consistent with the Forensic findings or post mortem lividity which is on the back side of the deceased, Yogesh suggestive that he had fallen on his back and not the stomach, as was being claimed by these three persons. Moreover, there were no blood stains on the back of the head of the deceased, Sh. Yogesh. Had the deceased indeed been lying in the prone



position, there would have been streaks of blood flow on his face instead of his whole face being smeared by blood.

12. As per the Post Mortem Report, there were reddish blue contusions on both right and left feet of the deceased, which suggest that if indeed there was a fall, whether accidental or homicidal, the deceased landed on his feet. But had it been so, there was no possibility of his having received a major lacerated bone-deep wound over occipital and parietal region of his skull. No injury/fracture to the frontal region of deceased's head was found, but surprisingly his face had a huge swollen right black eye as per the Post Mortem Report. The injuries on the body of the deceased are incompatible with the theory of the fall from the third-floor balcony. The injuries on his head as found in the Post Mortem Report, have not been properly justified or explained.

13. The fourth circumstance alleged by the Petitioner is the *contamination or alternation of the scene of crime*. The basis for this inference was that *in the photographs* circulated by Sh. Vishal, the deceased, Sh. Yogesh was seen holding an unlit cigarette in his left hand. Had he actually fallen the way it is claimed, there was no way that the unlit cigarette would have been continued to be between his fingers and had not been damaged.

14. The next suspicious circumstance is *the ante-mortem injuries*. It was found that he had a deep lacerated wound over the occipital area and over the high-parietal area which was bone-deep. The skull is in five layers and when the injury is stated to be bone-deep, it implies that the injury has penetrated all the five layers. Such injuries are consistent with a deliberate



injury been inflicted on his head by excessive force in addition to any fall, accidental or homicidal.

15. The next suspicious circumstance alleged by the Petitioner, Smt. K. Vanitha is **the position of Spectacles and other articles of the deceased found lying in the balcony of the third floor.** It is submitted that the deceased used to remove his spectacles only at the time of sleep. Surprisingly, the spectacles and his mobile phones along with the slippers were found lying on the floor of third-floor balcony. The position of these articles suggest that they were left there. There is no explanation as to why the deceased would remove and neatly place these articles on the floor.

16. The **other circumstances claiming to raise suspicion** is how could the three individuals have any personal knowledge that the deceased was sitting on the parapet in the balcony, since they were all in their respective rooms as per their statements.

17. Sh. Navneet was supposed to share the room with the deceased, Sh. Yogesh in the night of 06.02.2019. Apparently, he had woken up many a times “to throw up”. He would have surely noticed that the deceased, Yogesh, was not in the bedroom. Moreover, this excessive vomiting, also indicates that Navneet had consumed alcohol excessively.

18. Furthermore, the residents/owners of the house on the second floor, were not forthcoming. There is cogent evident to establish that the deceased had mentioned to his friend with whom he was texting and communicating, that Sh. Vishal was on the second floor. These messages of the deceased contradict the claim of Sh. Vishal that he was present in his room.



19. It is claimed that the deceased was merely a social drinker who never drank after the meal as a matter of habit. Given that a bottle of Bacardi Rum was found lying half empty, it is perfectly possible as these three individuals who had hatched a plan to kill the deceased, Sh. Yogesh, had got into a scuffle with the deceased driven by their alcoholic stupor and bludgeoned him to death to escape the financial liability. The Autopsy Report does not mention about presence of alcohol in the stomach of the deceased, Sh. Yogesh. The additional remarks have been made on the basis of the statement of the three individuals.

20. The deceased, Sh. Yogesh had texted to his friend Smt. Ramya and also made several calls to her during this period. The last conversation took place at around 02:16 A.M. for about 15 minutes, implying that he was alive till around 02:30 A.M. Smt. Ramaya had informed the Petitioner, Smt. K. Vanitha that Sh. Yogesh appeared to be in a fit state of mind and did not display any signs of being drunk like slurring of speech, unreadable texts, etc. The texts further revealed that Smt. Aarti was crying around mid-night for some reason and the deceased, Sh. Yogesh had tried to console her. The WhatsApp chat between Smt. Ramya and deceased, Sh. Yogesh tells a different story.

21. The Petitioner gave a written Complaint on 26.02.2019 under her signatures and that of the wife of the deceased, Sh. Yogesh, but the Police arbitrarily and categorically refused to register the FIR by saying that it was only a case of accident. No FIR even though as mandated under Section 154 Cr.P.C, was registered. It is submitted that the circumstances stated above



clearly reflect the suspicion around the death of deceased, Sh. Yogesh which was definitely not accidental.

22. *Therefore, a prayer was made for transferring the investigations from Police C.R. Park to CBI.*

23. The Petition is accompanied with ***Crl. M.A.32377/2023 under Section 482 Cr.P.C.*** for issuing directions for a Medical Board to be constituted by the Director, AIIMS to review its opinion in the light of the lacunae pointed out by the Truth Lab Services in its Supplementary Report dated 05.10.2023 and by the Petitioner, Smt. K. Vanitha in her main Petition. She further sought direction for recreating the crime scene by throwing a dummy of the size and measurement of the deceased from the parapet of the third-floor balcony in the presence of Medical Board and to record the observations there from.

24. ***The Status Report has been filed on behalf of Respondent No.1, State*** wherein it was submitted that though it is an unfortunate case where a young son of the Petitioner, Smt. K. Vanitha has died due to fall from the balcony, but due investigations were carried out on receipt of the PCR call, on which DD No.4A was registered.

25. During the enquiry from Sh. Vishal Agarwal and Sh. Navneeth Srinivas, it was found that in the evening they all were consuming alcohol and they all had gone up to sleep while deceased was still awake. In the morning, as per their statements, they found deceased lying in the balcony of second floor house. They immediately rushed down and made the call to the Police. According to them, the deceased may have slipped from the Balcony



under the influence of alcohol, which may have resulted in the death. There is no suspicion or foul play in this incident.

26. During the investigations, the statements of Sh. Mahesh Kumar Suri and Smt. Sulekha Suri occupants of Second Floor of the house, were recorded. They also stated that on 07.02.2019 at around 08:30 A.M., they opened the door, when there was a loud thumping on their main door and they all rushed to the balcony where they found a person lying dead in a pool of blood.

27. The *Post Mortem* was duly conducted at AIIMS of the deceased, Yogesh and his viscera was preserved. Pertinently, on 07.02.2019 Smt. Aparna and the Petitioner, Smt. K. Vanitha along with other relatives, were present in the Mortuary of AIIMS Hospital, wherein they did not raise any doubt against anybody in the death of Sh. Yogesh. They had given in writing that they do not have any suspicion of foul play in his death. They both identified the dead body of the deceased.

28. The cause of death in the Post Mortem Report was opined as “*Shock as a result of ante mortem injury to head consequent upon blunt force/surface impact. However, Viscera was preserved to rule out concomitant intoxication*”.

29. The Complainant, Smt. K. Vanitha as well as Smt. Aparna Agarwal had expressed suspicion in the death of Sh. Yogesh and requested for thorough investigations. The matter was thoroughly investigated and it was found that on 06.02.2017, Sh. Vishal Agarwal had admittedly taken a loan of Rs. 10 lakhs from the maternal uncle of the deceased, Sh. Yogesh. He explained that he needed Rs.5 lakhs, but on the request of Sh. Yogesh, he



took a loan of Rs.10 lakhs because the balance Rs.5 lakhs was required by Sh. Yogesh. The part loan was returned on different dates in 2017, but he was unable to return Rs.5 lakhs on account of financial crises.

30. Sh. Vishal Agarwal admitted that he had got the photographs of the deceased from Head Constable Jagdish, which he had sent to Sh. Karktik, son of his maternal uncle. Head Constable Sh. Jagdish explained that he had sent these photographs through WhatsApp in good faith as Sh. Vishal was the brother-in-law of the deceased.

31. It was further stated that the height of the balcony was sufficient to walk, sit etc. Moreover, the side parapet wall was also sufficiently wide for anybody to sit comfortably. During the enquiry, it was revealed that deceased and others had consumed alcohol after taking dinner. Cigarette butts were found in the balcony of third floor and the mobile phone as well as spectacle were found lying in the Hall.

32. The place where the dead body of Sh. Yogesh was found lying, does not create any suspicion and the position of his dead body was normal in the given circumstances. It had not been altered by anybody as there was no access of any outside person to the second-floor balcony. The occupants of the second-floor flat were elderly couple who lived alone and had opened the door only in the morning of 07.02.2019 when the door was banged by the three persons, as stated herein above.

33. It is further stated that deceased was on his mobile phone till 02:16 A.M in the intervening night of 6/7.02.2019. The statements of the three persons are fully corroborated by the Call Detail Records.



34. The statement of Sh. Bhagwathi Karthik Agarwal was also recorded wherein he gave all the details about how he got the information about the demise of Sh. Yogesh. He further stated that he never had any financial transaction with Sh. Yogesh or his family. He had no knowledge about the financial transactions between Sh. Vishal and Sh. Yogesh. In the past one year, he had never travelled to Delhi or visited his sister Smt. Aarti's house.

35. The statement of Sh. Mahesh Kumar Suri, the occupant of Second Floor was also recorded. The proceedings under Section 174 Cr.P.C was initiated. *The Enquiry conducted so far did not show any foul play.*

36. **Submissions heard and record perused.**

37. Essentially, it is an unfortunate incident of demise of Sh. Yogesh young son of the Petitioner, Smt. K. Vanitha on account of the fall from the balcony of third floor to second floor. Being a mother, it is quite understandable that her grief is inconsolable, but the circumstances which have been detailed by her, have been thoroughly investigated by the Police and nothing suspicious was found.

38. In the Status Report it has been explained that the three persons who were found present in the flat on the third floor with the deceased, had retired till about 12 midnight while the deceased had continued to be present in the balcony and was having text conversation on his mobile phone. ***The Police on thorough investigations, had found it to be an accidental fall from the third-floor balcony to the second-floor balcony.*** While as a mother the Petitioner, Smt. K. Vanitha may not be able to reconcile to be cruel turn of destiny, but the investigations conducted by the Police, cannot be held to be sketchy or motivated.



39. There are no circumstances which have been established which justify the transfer of investigations to CBI. However, if the Petitioner, Smt. K. Vanitha was still not satisfied with the investigations conducted by C.R. Park Police or non-registration of FIR on her Complaint, she always had an option to approach the Court under Section 223 read with Section 175(3) Bharatiya Nagarik Suraksha Sanhita, 2023, for seeking registration of FIR.
40. There is no merit in the present Petition, which is hereby dismissed.
41. Pending Applications are accordingly, disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

JUNE 28, 2025

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