

ADVOCATES ASSOCIATION, BANGALORE

v.

UNION OF INDIA & ORS.

(Civil Appeal No. 7159 of 2013)

AUGUST 27, 2013

[P. SATHASIVAM, CJI, RANJANA PRAKASH DESAI
AND RANJAN GOGOI, JJ.]

Constitution of India, 1950 - Article 136 - CBI investigation - Entrusting of - Prayer for - Tenability - Scuffle between advocates, police and media persons and simultaneous violence in the City Civil Court Complex - Lathi charge by police - Several persons injured - Number of vehicles also damaged and destroyed due to stone pelting and arson - Over 191 cases registered - Writ petitions before High Court - Special Investigation Team (SIT) constituted by High Court to investigate into the incident - Direction of Supreme Court modifying the composition of SIT - In spite of the modified order of Supreme Court, investigation did not commence due to non-formation of SIT - Held: Principles laid down in a Constitution Bench decision of Supreme Court in regard to entrusting of investigation to CBI, and the series of incidents in the instant case, make it clear that CBI inquiry is necessitated in the matter in issue - CBI directed to carry out the investigation and submit a report before the appropriate Court within six months - State/SIT to immediately hand over all the records pertaining to the investigation to the CBI.

On 02.03.2012, when a former Minister in the Government of Karnataka was sought to be produced by the CBI, Bangalore Branch, in the City Civil Court Complex, a large crowd gathered in the court premises which caused a great deal of inconvenience, as a result of which, scuffle ensued between advocates, police and

- A media persons and simultaneously violence broke out and the police resorted to lathi charge in which several persons got injured. A number of vehicles were also damaged and destroyed due to stone pelting and arson. Over 191 cases were registered in regard to the above
 B said incident against the police, advocates, media persons, public etc. under various categories in various police stations of the City.

- Several writ petitions came to be filed before the
 C High Court seeking various reliefs inter alia including direction to the State Government to entrust the investigation of the incident to the CBI. Vide order dated 16-5-2012, the High Court constituted a Special Investigation Team (SIT) to investigate into the incident and to conclude the same within 3 months from the date
 D of the Government Notification.

- It is the grievance of the appellant-Association before this Court that inspite of the said order of the High Court dated 16-5-2012 and subsequent direction of this Court
 E dated 19-10-2012 modifying the composition of SIT, investigation had still not commenced even after a lapse of one year and five months from the date of the incident. It was submitted that it was a fit case which the Central Bureau of Investigation (CBI) should investigate and an
 F outer limit ought to be fixed for the same.

Allowing the appeal and accordingly disposing off the connected I.A., the Court

- HELD: 1. It is unfortunate that even after the order of
 G this Court dated 19.10.2012 nothing has happened. The constitution of the so-called SIT has not completed till date. In spite of the modified order of this Court, the investigation is yet to commence due to non-formation of SIT. [Para 10] [822-B, C]
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2.1. As regards entrusting the investigation to the CBI, a Constitution Bench of this Court in Committee for Protection of Democratic Rights, West Bengal has laid down certain principles. It was held therein that a direction by the High Court, in exercise of its jurisdiction under Article 226 of the Constitution, to CBI to investigate a cognizable offence alleged to have been committed within the territory of a State without the consent of that State will neither impinge upon the federal structure of the Constitution nor violate the doctrine of separation of power and shall be valid in law. Being the protectors of civil liberties of the citizens, the Supreme Court and the High Courts have not only the power and jurisdiction but also an obligation to protect the fundamental rights, guaranteed by Part III in general and under Article 21 of the Constitution in particular, zealously and vigilantly. It was further held that insofar as the question of issuing a direction to CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations. [Para 11] [822-D-G; 823-B-E]

A 2.2. Keeping the above principles in mind,
 considering the series of unfortunate incidents which
 occurred within the City Civil Court Complex, Bangalore
 on 02.03.2012 involving members of the bar, police
 personnel, journalists and media persons and in spite of
 B the specific direction by the High Court as early as on
 16.05.2012, subsequent order of this Court dated
 19.10.2012, and also of the fact that the composition of
 SIT itself has not been finalized, it is clear that the present
 case falls within the principles enunciated by the
 C Constitution Bench and this Court is satisfied that CBI
 inquiry is necessitated in the matter in issue. [Para 11]
 [823-F-G]

*State of West Bengal and Others vs. Committee for
 Protection of Democratic Rights, West Bengal and Others*
 D (2010) 3 SCC 571: 2010 (2) SCR 979 - followed.

3. The CBI is directed to carry out the investigation
 and submit a report before the appropriate Court having
 jurisdiction at Bangalore within a period of six months
 E from the date of receipt of copy of this judgment. Further
 the State/SIT is directed to immediately hand over all the
 records pertaining to the said investigation to the CBI.
 [Para 12] [824-B]

Case Law Reference:

F 2010 (2) SCR 979 followed Para
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G From the Judgment & Order dated 16.05.2012 of the High
 Court of Karnataka at Bangalore in Writ Petition No. 7623 of
 2012 (GM-RES).

WITH

I.A. No. 8 in C.A. No. 7159 of 2013.

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Amarjit Singh Chandhiok, ASG, K.K. Venugopal, P. Viswanath Shetty, K. V. Vishwanathan, Bharadwaj J. Iyengar, Rohit Bhat, B. Subrahmanya Prasad, Rajiv Nanda, Vidit Gupta, Harleen Singh, Syed Tanweer Ahmad, B.V. Balram Dass, Arvind Kumar Sharma, V.N. Raghupathy for the appearing parties.

The Judgment of the Court was delivered by

P. SATHASIVAM, CJI. 1. Leave granted.

2. This appeal is filed against the final judgment and order dated 16.05.2012 passed by the High Court of Karnataka at Bangalore in Writ Petition No. 7623 of 2012 whereby the Division Bench of the High Court constituted a Special Investigation Team (SIT) to investigate into the broadcasting of certain news items by certain television channels on 02.03.2012 regarding scuffle between advocates, police and media persons in the premises of the City Civil Court Complex, Bangalore.

3. Brief Facts:

(a) On 02.03.2012, Shri Janardhana Reddy, former Minister in the Government of Karnataka was sought to be produced by the CBI, Bangalore Branch, in the Court of 46th Additional City Civil and Special Judge, CBI at Bangalore City Civil Court Complex in a case which invited considerable public attention. The electronic as well as the print media were in the precincts of the Court so as to film and make video coverage and publish the news regarding the production of the former Minister.

(b) A large crowd gathered in the court premises caused a great deal of inconvenience, as a result of which, scuffle ensued between advocates, police and media persons and simultaneously violence broke out and the police resorted to lathi charge in which several persons got injured. A number of vehicles were also damaged and destroyed due to stone pelting

A and arson. Over 191 cases were registered in regard to the above said incident against the police, advocates, media persons, public etc. under various categories in various police stations of the City.

B (c) On 06.03.2012, Advocates Association, Bangalore-the appellant herein, registered under the Karnataka Societies Registration Act, 1959, submitted a representation to the Chief Minister of Karnataka to take suitable action against the police atrocities committed on the advocates on 02.03.2012.
C Subsequently, on 07.03.2012, the General Secretary of the appellant-Association filed a detailed complaint in the jurisdictional police station wherein the names of the police officers who were involved in the said incident were given.

D (d) On the very same day, i.e., on 07.03.2012, the Government of Karnataka issued a Government Order (GO) and appointed the Director General of Police, CID, Special Units & Economic Offences as the Inquiry Officer to conduct an in-house inquiry into the matter. On 10.03.2012, the Registrar, City Civil Court, Bangalore, lodged a complaint with the Ulsoorgate
E Police Station for causing damage to the property of City Civil Court, Bangalore which came to be registered as FIR No. 206/2012 under Sections 143, 147, 323, 324, 427, 435 read with Section 149 of the Indian Penal Code, 1860 (in short 'the IPC') and Section 3(1) of the Prevention of Damage to Public
F Property Act, 1984 against unknown persons. On 19.03.2012, the Director General of Police submitted his report stating that the officers on bandobust failed to exercise adequate and proper supervisory control on the policemen while controlling the situation, which resulted in excesses committed by some
G of the policemen, and the police personnel responsible for excesses could not be easily identified.

(e) Several writ petitions came to be filed before the High Court seeking various reliefs inter alia including direction to the
H State Government to entrust the investigation to the CBI. On

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26.03.2012, the President of the appellant-Association filed an affidavit in the writ petitions, viz., 7623 and 8328 of 2012 appraising the court about the dismal progress in the investigation carried out by the police. In view of the same, on 29.03.2012 and 02.04.2012, Assistant Commissioner of Police filed an affidavit and counter affidavit respectively stating the status of the investigation. It was further stated that the State Government has accepted the report of the Director General of Police and he has been directed to conduct further inquiry. Several documents, records and other details were produced before the High Court during the course of the proceedings.

(f) The High Court, by order dated 16.05.2012, constituted a Special Investigation Team (SIT) headed by Dr. R.K. Raghavan, a retired Director of the CBI as Chairman and Mr. R.K. Dutta, Director General of Police, CID, Bangalore as Convenor along with other police officials to investigate into the incident with reference to the complaints lodged by the police, advocates as well as media against each other and to conclude the same within 3 months from the date of the Government Notification. In pursuance of the same, the State Government issued a series of Notifications constituting and reconstituting SIT for reasons of non-availability of officers to be its members.

(g) Being aggrieved of the impugned order, this appeal has been filed by way of special leave before this Court. On 19.10.2012, this Court rejected the prayer of alteration of the investigating agency and directed the SIT to commence the investigation forthwith and submit a report within 3 months from the date of the order. Pursuant to the same, the State Government issued notifications dated 03.11.2012, 13.11.2012 and 17.11.2012 for appointing and substituting various officers in the SIT. On 12.12.2012, the State Government filed an application seeking extension of 6 months' time to investigate the case. In January, 2013, the State

A Government filed a similar application for an extension of 6 months to submit a report.

B (h) Being aggrieved of the fact that in spite of a lapse of over 1 year from the date of incident, the investigation has not even commenced even after the orders of the High Court dated 16.05.2012 and this Court dated 19.10.2012, the appellant-Association filed a contempt petition.

C (i) Interlocutory Application being No. 8 also came to be filed in the above said special leave petition to direct the SIT to hand over the investigation to the CBI in view of this Court's order dated 19.10.2012.

D 4. Heard Mr. K.K. Venugopal, learned senior counsel for the appellant-Association, Mr. K.V. Viswanathan, learned senior counsel for the respondent-State and Mr. Amarjit Singh Chandhiok, learned Additional Solicitor General for the Union of India.

Contentions:

E 5. Mr. K.K. Venugopal, learned senior counsel for the appellant-Association submitted that in spite of the fact that the incident occurred on 02.03.2012 and in view of the subsequent order of the High Court dated 16.05.2012 constituting a Special Investigation Team (SIT) and subsequent direction of this Court
F dated 19.10.2012 modifying the composition of SIT, the fact remains that till this moment, nothing has turned down, in fact, the investigation is yet to commence. Learned senior counsel for the appellant-Association further contended that in view of
G the fact that persons concerned in the issue are members of the bar, police personnel, persons from both print and electronic media, it is a fit case which the Central Bureau of Investigation (CBI) should investigate fixing an outer limit for the same.

H 6. On the other hand, Mr. K.V. Viswanathan, learned senior counsel appearing for the respondent-State, by drawing our

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attention to various orders of the High Court and this Court, submitted that owing to the clarifications sought for in respect of the composition of SIT, the matter got delayed in commencing the investigation and according to him, there is no need to entrust the investigation to an agency like CBI.

7. Mr. A.S. Chandhiok, learned ASG appearing for the Union of India submitted that though the CBI is to abide by the orders of this Court but due to various activities being handled by the CBI, let the SIT be allowed to continue and complete the investigation.

Discussion:

8. It is seen that on account of serious and unfortunate incident involving advocates, police personnel, journalists, media persons in the City Civil Court Complex at Bangalore on 02.03.2012, large number of persons were assaulted and injured. It is alleged by the appellant-Association that the same was caused due to the action of the police and the media. The appellant-Association also raised serious allegations against the print and electronic media in broadcasting false and provocative news thereby maligning and demeaning the advocate community.

9. Initially, the appellant-Association filed a Writ Petition No. 7623 of 2012 praying for a direction to the State Government to entrust the investigation to the CBI. Several other writ petitions were also filed. By impugned order dated 16.05.2012, the High Court disposed of the writ petition by constituting a SIT headed by Shri R.K. Raghavan, a retired Director of the CBI and other officers. It is further seen that on 19.10.2012, this Court reconstituted the SIT to investigate into the incident and also directed to submit a report within three months from the date of the order.

10. It is the grievance of the appellant-Association that in spite of the directions of this Court and a series of notifications

- A issued by the State Government constituting and re-constituting SIT for one reason or the other, the fact remains that even after a lapse of one year and five months from the date of the incident, the investigation has not yet been commenced. It is unfortunate that even after the order of this Court dated
- B 19.10.2012 nothing has happened. It is relevant to mention that the constitution of the so-called SIT has not completed till date. Though Mr. K.V. Viswanathan, learned senior counsel for the respondent-State raised an objection as to the averments in para 9 in I.A. No. 8 filed by the appellant-Association, it is clear
- C that in spite of the modified order of this Court, the investigation is yet to commence due to non-formation of SIT.

11. As regards entrusting the investigation to the CBI, a Constitution Bench of this Court in *State of West Bengal and Others vs. Committee for Protection of Democratic Rights, West Bengal and Others*, (2010) 3 SCC 571 has laid down certain principles. Though the CBI has issued various principles/suggestions for endorsing the matter to CBI in para 68, it is worthwhile to refer the conclusion in paras 69 & 70.
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- E “69. In the final analysis, our answer to the question referred is that a direction by the High Court, in exercise of its jurisdiction under Article 226 of the Constitution, to CBI to investigate a cognizable offence alleged to have
- F been committed within the territory of a State without the consent of that State will neither impinge upon the federal structure of the Constitution nor violate the doctrine of separation of power and shall be valid in law. Being the protectors of civil liberties of the citizens, this Court and the High Courts have not only the power and jurisdiction
- G but also an obligation to protect the fundamental rights, guaranteed by Part III in general and under Article 21 of the Constitution in particular, zealously and vigilantly.

70. Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by
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Articles 32 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these constitutional powers. The very plenitude of the power under the said articles requires great caution in its exercise. Insofar as the question of issuing a direction to CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations."

Keeping the above principles in mind, considering the series of unfortunate incidents which occurred within the City Civil Court Complex, Bangalore on 02.03.2012 involving members of the bar, police personnel, journalists and media persons and in spite of the specific direction by the High Court as early as on 16.05.2012, subsequent order of this Court dated 19.10.2012, and also of the fact that the composition of SIT itself has not been finalized, we feel that the present case falls within the principles enunciated by the Constitution Bench and we are satisfied that CBI inquiry is necessitated in the matter in issue.

12. In the light of what is stated above, while setting aside

- A the impugned order of the High Court dated 16.05.2012 and in modification of earlier order of this Court dated 19.10.2012, we entrust the entire investigation of the incident to the CBI. Accordingly, we direct the CBI to carry out the investigation and submit a report before the appropriate Court having jurisdiction
- B at Bangalore within a period of six months from the date of receipt of copy of this judgment. We further direct the State/SIT to immediately hand over all the records pertaining to the said investigation to the CBI.

- C 13. The appeal is allowed on the above terms. In view of the above direction, no separate order is required in I.A. No. 8 of 2013, accordingly, the same is also disposed of.

B.B.B.

Appeal allowed & I.A. disposed of.