IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.259 of 2022

Arising Out of PS. Case No.-49 Year-2021 Thana- BEERPUR District- Begusarai

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TEZASWINI KUMARI D/o Gopal Sah R/o H.No. 0091, Asurari Barauni, Barauni Urvark Nagar, Begusarai, Bihar, Pin Code- 851115.

... ... Petitioner

Versus

1. The State Of Bihar Through Its Director General Of Police, Patna, Bihar Bihar
2. The Senior Superintendent of Police, Begusarai. Bihar
3. The Superintendent of Police, Begusarai. Bihar
4. The Station House officer, Birpur Police Station, Begusarai. Bihar

... ... Respondents

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Appearance :

For the Petitioner	:	Mr. Akash Keshav, Advocate Ms. Akansha Malviya, Advocate Mr. Vishal Kumar Singh, Advocate Mr. Shashwat Anand Shukla, Advocate Mr. Pushkar Pushp, Advocate
For the Respondents	:	Mr. Prabhat Kumar Verma, AAG-3 Mr. Suman Kumar Jha, A.C. to AAG-3

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

CA.V. JUDGMENT

Date : 08-04-2026

The present writ petition has been filed by the petitioner seeking re-investigation / *de novo* investigation in the death of her mother. It is the case of the petitioner that the investigation conducted by the local police in relation to the death of her mother is incomplete and deliberately directed away from the real line of investigation, and therefore, warrants investigation by the Central Bureau of Investigation (CBI) or a Special Investigating Team (SIT). In this backdrop the present

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writ petition has been filed *inter alia* for the following prayers: -

> *"I. For Issuance of a writ in the nature of Mandamus or any other appropriate writ(s) or order(s) or direction(s) to transfer the said FIR bearing No.49 of 2021 dated 05.04.2021, registered under Section 302, IPC lodged with Birpur Police Station, Begusarai to Central Bureau of Investigation (CBI) or alternatively direct for the constitution of a Special Investigation Team (SIT) to investigate in the present matter.*
>
> *II. For Issuance of a writ in the nature of Mandamus or any other appropriate writ(s) or order(s) or direction(s) directing the respondent authorities to conduct a de novo investigation in the said FIR bearing No.49 of 2021 dated 05.04.2021, registered under Section 302, IPC lodged with Birpur Police Station, Begusarai.*
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> *III. For Issuance of a writ in the nature of Mandamus or any other appropriate writ(s) or order(s) or direction(s) to the CBI or the SIT to take all and any steps as may be required and permissible under law, to meet the ends of justice and to solve and unravel the mystery of the death of the deceased mother of the petitioner.*
>
> *IV. Pass such order and further order or orders as this Hon'ble Court may deem fit and proper under the facts and circumstances of the present case."*

2. Subsequently, the petitioner has preferred to

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move an Interlocutory Application bearing ***I.A. No. 01 of 2025*** seeking to amend the prayer portion of the main writ petition and add an additional prayer. The aforesaid I.A. No. 01 of 2025 was allowed *vide* order dated 27.06.2025, and the following additional prayer stood added :-

> *"V. For setting aside the order dated 09.04.2025 in complaint case number 211114 of 2022 whereby and whereunder the Learned Court of Om Prakash, Judicial Magistrate First Class, Begusarai while treating the protest petition filed by the petitioner in Birpur P.S. Case No.49 of 2021 as a complaint case, after making inquiry under Section 200 and Section 202 of Cr.P.C. has been pleased to dismiss the same under Section 203 of the CrPC."*

3. The facts in brief relevant for the present purpose are that, the present petitioner is the daughter of one Rinku Kumari, who was found dead on 04.04.2021 at Kasturba Gandhi Balika Avasiya Vidyalaya, Muzaffara, Begusarai. According to the prosecution, the deceased left her house on 04.04.2021 in the morning, for the aforesaid school, where she was working as a warden, saying that she will come back home by evening. However, at around 2:00 P.M., the petitioner received a phone call and when the petitioner reached there along with her family members, she saw the dead body of her

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mother, lying on the floor. Later she was shown pictures of her deceased mother by the police officials and local people who had gathered there, in which her mother was seen to be in sitting position, with a noose around the neck and the rope looped from a ceiling fan and her body was covered with dirt and dust. Thereafter, the petitioner along with her family members performed the last rites of her mother and on the very next date i.e. on 05.04.2021 the petitioner approached Birpur Police Station, Begusarai and the present F.I.R. bearing Birpur P.S. Case No.49 of 2021 dated 05.04.2021 came to be registered.

4. It is the case of the petitioner that when she approached the Birpur Police Station on 05.04.2021 to register an FIR naming Kaushal Kumar and Rohit Kumar as accused, the S.H.O. of Birpur Police Station, refused to lodge an FIR against the above mentioned suspected accused persons stating that the petitioner was not present at the time of the incident and insisted that the F.I.R. will get registered only if the petitioner gives an application in accordance with what the S.H.O. directs and only thereafter, the present F.I.R. came to be lodged based on the new complaint which was drafted as per the direction of the S.H.O. and prepared by the scribe (*Katib*) namely, Prabhakar Kumar and was later signed by the petitioner.

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5. It is the further case of the petitioner that about three years ago from the date of occurrence, aforesaid Kaushal Kumar and Rohit Kumar, who are the neighbours of the family of the petitioner, had taken Rs.15,00,000/- from the mother of the petitioner for transferring a piece of land to her, however, neither did they transfer the land nor did they return the money. Subsequently, a *panchayati* was held, in which both the above-named persons had assured the deceased that they will return the money on 04.04.2021 but on the same date i.e., on 04.04.2021 the mother of the petitioner was found dead under mysterious circumstance, which according to the petitioner, warrants a serious investigation of the aforesaid two suspected accused persons.

6. At the outset, learned counsel for the petitioner submits that from the very beginning, the local police officials had been hand in gloves to protect the suspected accused persons, since they have considerable influence in the local community which is illustrated by the fact that despite repeated requests by the petitioner, who is the informant of the present case, the Police has failed to name the aforesaid suspected accused persons in the FIR.

7. Learned counsel for the petitioner has next

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submitted that the petitioner was assured that after conducting preliminary investigation, name of the persons provided by the petitioner shall be arrayed as accused persons, however, the same was not done and the authorities have failed to conduct a proper investigation. The case has been investigated only in a manner to support the narrative of suicide, ignoring the apprehension that the death of the mother of the petitioner was not a case of suicide but a case of murder.

8. Learned counsel for the petitioner submits that the petitioner had visited the competent authorities several times for taking proper action but she remained unheard. Being dissatisfied, an e-mail dated 10.04.2021 describing the entire fact of the matter was sent to the Director General of Police and other high ranking functionaries of the State requesting them for their intervention in the matter. The petitioner also wrote a letter dated 16.04.2021 to the Superintendent of Police, Begusarai stating all her grievances against the investigating authority. Later, on 07.06.2021 the petitioner had also moved a protest petition against the closure report filed by the Police in the Court of ACJM-VI, Begusarai.

9. It has categorically been reiterated by the learned counsel for the petitioner that the above-named persons

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are two influential people of the town having political, social and economic influence in the surrounding area and they also have influence over the local police authorities and for the said reasons the police officials of Birpur Police Station have failed to register an F.I.R. naming the aforesaid two persons. It is emphasized by the learned counsel for the petitioner that the lackadaisical attitude of the police is illustrated by the fact that they have not even bothered to record the statements of aforesaid Kaushal Kumar and have rather made aforesaid Rohit Kumar as a prosecution witness.

10. It has been argued by the learned counsel for the petitioner that the investigative authorities have failed to enquire into the fact that as per the statement of the *Adeshpal* i.e. the peon of the school, namely, Ajit Kumar Bablu, the deceased had informed him regarding her visit to school and had asked him to reach the school by 12:00 noon. Learned counsel for the petitioner has pointed towards the inconsistencies in the statement of the aforesaid peon, which was never investigated by the police thoroughly. The learned counsel for the petitioner submits that the aforesaid peon, on the one hand, has stated that the deceased had informed him before reaching the school premises, however, contradicting his statement, on the other

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hand, he has stated that the deceased usually used to inform him about her arrival at the school, however, she did not inform him on the date of occurrence. Further, the peon in his statement has stated that he had reached the school at 12:30 P.M. but during investigation, it has come that the CCTV camera installed at the school was suspiciously switched on at 01:45 P.M. and at 01:53 P.M. the peon was seen running towards the main gate calling people and hurling. However, there is no finding regarding the whereabouts of said peon in between 12:30 P.M. and 01:53 P.M. and more importantly, the investigating officer has failed to investigate the case on the point as to why the CCTV camera installed at the school remained non-functional / switched off for almost five and half hours.

11. It has further been argued by the learned counsel for the petitioner that although the investigation regarding the Call Detail Records and Customer Acquisition Form of the deceased and said Kaushal Kumar has been made, but the investigation has failed to gather details regarding call records either of the deceased or said Kaushal Kumar and though the Investigating Officer has analyzed the tower location of the suspected accused, but the same is only after 08:59 A.M. which is way beyond the time when the CCTV camera got

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switched off, and therefore, the aforesaid investigation of the Call Detail Record holds no meaningful relevance.

12. It is the categorical submission of the learned counsel for the petitioner that from the inquest report prepared on the place of occurrence, it is evident that the body of the deceased was found in a sitting position, which further aggravates the suspicion of a staged hanging and therefore, points towards planned homicide, considering the fact that even the C.C.T.V. cameras installed in the school premises were switched off just after the entry of the deceased in the school. Further, it has come during investigation that the above-named two persons had taken money from the deceased and there was regular tension amongst the family of the deceased and the above-named persons.

13. Lastly, he submits that the police have failed to conduct a fair, proper and honest investigation in the present case and the petitioner seeks justice to unravel the mystery of her mother's death, dissatisfied with the investigation carried out by the investigating officer as the investigation has reached a dead end without identification of the criminals and the investigating authorities have investigated the present case with a coloured perspective from the very inception.

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14. The respondent nos. 3 and 4 have filed their counter affidavit, in which they have reiterated the facts of the case and have supported the case of prosecution. It has been stated in the counter affidavit that the postmortem of the deceased was performed at Sadar Hospital, Begusarai and the opinion was *'due to asphyxia as a result of hanging'*.

15. Paragraph nos.8 to 15 of the counter affidavit filed by the respondent nos.3 and 4, read as under:-

> *"8. That in course of investigation CCTV Footage of the school was perused and it was found that the deceased Rinku Kumari came in the School Gate at 7:55 and close the gate 7:56 and switch off the CCTV Camera at 7:57:41. One switch was installed in the School Office can switch off the CCTV Camera. Further at about 13:24 CCTV Camera came in operational and at 13:32 Ajit Kumar Bablu, Peon of the school was going outside and calling. These facts indicates that the deceased came in the school and switch off the CCTV Camera.*
>
> *9. That in course of investigation CDR & CAFF of Mobile Number xxx191 & xxx601 was obtained. Mobile Number xxx191 is standing in the name of deceased and from this mobile number call was made to mobile number xxx219 on 04-04-2021 at 06:17 and at that time location of this mobile was at Shivam Nursing Home Bus Stand Begusarai and at 09:09 at Bhawanandpur Birpur. The Mobile number xxx219 is standing*

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in the name of School Peon Ajit Kumar Bablu.

10. *That the Superintendent of Police vide Report-2 contained in memo no.5633/Cr. dated 23-08-2021 directed the Investigating Officer to obtained Mobile Number of Kaushal Kumar, Gopal Sah, husband of the deceased and Peon of the School namely Ajit Kumar Bablu and obtained the Tower Location of the Mobile on the date of occurrence and also took the statement of the deceased husband.*
11. *That in course of investigation the Investigating Officer of the case took statement of Devendra Kumar, Ajit Kumar, Ram Vijay Paswan Principle of the School, Abhishek and Chetna Kumari daughter of the deceased.*
12. *That Sub-Divisional Police Officer, Begusarai also inspected the place occurrence in course of supervision and took statement Devendra Kumar, Ajit Kumar, Ram Vijay Paswan Principle of the School, Abhishek.*
13. *That in course of Investigation, CDR & CAFF of Mobile No.xxx847 and xxx524 was obtained by the I.O. of the Case and this mobile number is standing in the name of Kaushal Kumar, HMO-126, resident of Asurari, Hasanpur. Tower Location of this mobile number was found at Asurari & Bihat on 05-04-2021 from 02:09:09 to 17:26:23 and Tower Location of Mobile No. xxx847 was found Rajapur at about 08:59:50 and Hardiya 19:00, 10:04 at Savaura, 10:11 Pipra Devas, 10:23 Hajipur Pipra Devas, 10:45 Aadharpur, 11:56 Bhagwanpur on 04-04-2021.*

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14. That in course of investigation statement of bank account of the deceased was obtained and it was found Rs.3,11,513.70/- in her account.

15. That after investigation, it was found that the deceased and Kaushal Kumar are giving amount to each other. The witnesses stated that the Kaushal Kumar has always help the deceased when ever required and as such there is a family relationship between the both the parties. Kaushal Kumar was not present at the place of occurrence, which is fortified from the CCTV Footage, independent witness and CDR & Location of Mobile Number. As per independent witness deceased Rinku Kumari was in financial crisis and none of the family member providing any help. The independent witness also stated that the deceased Rinku Kumari also tried to suicide earlier."

16. I have heard and considered the submissions of the parties and perused the materials on record.

17. In the facts of the present case, it would be apposite to reproduce the written application dated 05.04.2021 based on which the present F.I.R. has been lodged:-

"सेवा में,

श्रीमान् थानाध्यक्ष महोदय,

विरपुर थाना, बेगूसराय

महाशय,

निवेदन पूर्वक कहना है कि मैं तेजस्विनी कुमारी उर्फ मोनी कुमारी उम्र करीब 20 वर्ष (बीस वर्ष), पिता–

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गोपाल साह, ग्राम– असुरारी, थाना–बरौनी, जिला–बेगूसराय की रहने वाली हूँ। मेरी माँ रिंकू कुमारी, उम्र–40 (चालीस) वर्ष जो कस्तूरबा गाँधी बालिका आवासीय विद्यालय, मुजफ्फरा, विटपुर में वार्डेन के पद पर कार्यरत थी। अन्य दिनों की भांति दिनांक 04.04.21 को मेरी माँ असुरारी घर से सुबह में विद्यालय के लिए चली थी। उसी दिन दोपहर करीब 2 बजे (दो बजे) सूचना पाकर जब मैं अपने परिजनों के साथ कस्तूरबा गाँधी बालिका आवासीय विद्यालय पहुँची तो मेरी माँ की लाश फर्श पर लिटाया देखा और अन्य लोग तथा प्रशासनिक लोगो ने अपने–अपने मोबाईल से खींचा फोटो पंखा से लटका हुआ शव को दिखाया। मुझे पूरा विश्वास है कि मेरी माँ की हत्या की गई है तथा दिगभ्रमित करने के लिए लाश को पंखा से लटका दिया गया। माँ की अन्तिम संस्कार करने के उपरान्त मैं थाना पहुँचकर अपना आवेदन दे रही हूँ।

अतः श्रीमान् से अनुरोध है कि दोषी व्यक्तियों के विरूद्ध उचित कानूनी कार्रवायी करते हुए मुझे न्याय दिलाने की कृपा की जाए।"

18. After completion of the investigation, the police had submitted final form / closure report on 31.10.2021. Thereafter, the petitioner preferred a protest petition which was treated as a complaint case and numbered as Complaint Case No. 211114 of 2022. The learned Court of Judicial Magistrate, 1st Class, Begusarai *vide* order dated 09.04.2025 had dismissed the complaint case. The aforesaid order dated 09.04.2025 reads as under:-

*"**Judicial Magistrate 1st Class, Begusarai***

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Complaint Case No. 211114 of 2022

Tejaswini Kumari v. Kaushal Kumar & Anr.

09.04.2025

The record is put up for order today. This complainant case under section 302, IPC arises out of protest petition filed by the complainant against Kaushal Kumar and Rohit Kumar after police, upon investigation, submitted closure report in Birpur PS Case no. 49 of 2021.

The court had examined the complainant on oath under section 200 of the CrPC. Subsequently, four inquiry witnesses namely Ram Balak Sah (IW-1), Devendra Kumar (IW-2), Chetna Kumari (IW-3) and Prabhakar Kumar (IW-4) were examined under section 202 of the CrPC.

Discussion of the evidence adduced during examination and inquiry

Perused the entire case record including the deposition of complainant and inquiry witness, report of probation officer called up by the court as part of inquiry, and the original case diary submitted with the police report. The case of the complainant in brief is that Rinku Kumari, the mother of the complainant, was working as a warden in Kasturba Vidyalaya in Muzaffra, Birpur, Begusarai. On 04.04.2021 at around 6 am, she had gone with Kaushal to the school. At around 2 pm, the complainant received a phone call from an unknown number. She was informed that her mother had committed suicide. When the complainant

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reached the spot, she saw the dead body of her mother lying on floor and was of the impression that it was not a suicide but a homicide. The complainant also states that she wanted to name Rohit and Kaushal in FIR but Police refused to name any person in FIR and insisted that FIR be registered against unknown persons. The complainant alleges that her mother had given Rs. 15 lakhs to Kaushal Kumar for the purchase of land. The accused neither registered the sale of land nor returned her money. The complainant alleges that her mother had also written a letter, which is on record, to the accused demanding money from him.

The postmortem report has been placed on record, and it reveals that the cause of death was "asphyxia as a result of hanging." No other injuries were found on the body, nor was there any mention of struggle marks or signs of forcible restraint.

The test before the court is whether there exists sufficient ground for proceeding under Section 204 CrPC. The complainant, in her examination, has expressed her suspicion that the accused are responsible for the death of the deceased. In her support, she has cited the letter allegedly written by her mother to the accused demanding money. The four inquiry witnesses have also supported the allegation that the deceased had lent money to the accused and was demanding its return. However, apart from the alleged motive, no direct or circumstantial

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evidence has been placed on record to suggest homicidal death or to connect the accused with the act of killing.

There is no material on record which could suggest the presence of the accused at the place of occurrence, any last-seen evidence, recovery, dying declaration, or any form of incriminating material which could establish a prima facie case of murder. It is also significant that the medical evidence, in the form of the postmortem report, does not support the hypothesis of homicidal hanging. In the absence of corroborative material, motive alone is insufficient to proceed against the accused.

In view of the above discussion, the court is of the considered opinion that sufficient ground does not exist for proceeding against the accused persons. The complaint is devoid of the basic ingredients required to summon the accused for an offence punishable under Section 302, IPC or any other penal provision.

Accordingly, the complaint is dismissed under Section 203 CrPC. OC is directed to consign the record in the record room as per rules."

19. A Co-ordinate Bench of this Court *vide* order dated 07.03.2024 had called for an opinion from the Head of the Department, Forensic Medicine and Toxicology, Patna Medical College and Hospital, Patna, as to whether death of a person can be caused by hanging in the manner as depicted in the picture of

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the deceased. The opinion was given *vide* letter dated 08.04.2024 wherein it was opined that death can be caused by hanging in the manner as depicted in the picture of the deceased. It was stated that on the basis of the pictures and documents supplied, the present case was characterized as a case of "*partial hanging*" which in his opinion is "*usually suicidal in nature causing death due to asphyxia*". It was lastly stated that partial hanging is a type of hanging in which some parts of body touches the ground and the constricting force is the weight of head of the body; partial suspension. The bodies are in sitting, reclining, kneeling, prone or any other posture.

20. At this juncture, it would be gainful to refer the position of law on the powers of the Constitutional Court to direct for re-investigation / *de-novo* investigation.

21. The Hon'ble Supreme Court in the case of ***Rubabbuddin Sheikh vs. State of Gujarat & Ors.*** reported as ***(2010) 2 SCC 200*** while exercising epistolary jurisdiction on the letter written by the brother of the victim in a fake encounter has held that the Constitutional Court is not barred from directing further / *de novo* investigation in an appropriate case and has held as follows:-

> *"**60.** Therefore, in view of our discussions made hereinabove, it is difficult to accept the*

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contentions of Mr Rohatgi, learned Senior Counsel appearing for the State of Gujarat that after the charge-sheet is submitted in the court in the criminal proceeding it was not open for this Court or even for the High Court to direct investigation of the case to be handed over to CBI or to any independent agency. Therefore, it can safely be concluded that in an appropriate case when the court feels that the investigation by the police authorities is not in the proper direction and in order to do complete justice in the case and as the high police officials are involved in the said crime, it was always open to the court to hand over the investigation to the independent agency like CBI. ***It cannot be said that after the charge-sheet is submitted, the court is not empowered, in an appropriate case, to hand over the investigation to an independent agency like CBI.***

61. Keeping this discussion in mind, that is to say, in an appropriate case, the court is empowered to hand over the investigation to an independent agency like CBI even when the charge-sheet has been submitted, we now deal with the facts of this case whether such investigation should be transferred to the CBI Authorities or any other independent agency in spite of the fact that the charge-sheet has been submitted in court. On this

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ground, we have carefully examined the eight action taken reports submitted by the State police authorities before us and also the various materials produced and the submissions of the learned counsel for both the parties. *(emphasis supplied).*

22. In the case of ***State of West Bengal & Ors. vs. Committee For Protection Of Democratic Rights, West Bengal & Ors.*** reported as ***(2010) 3 SCC 571,*** the Hon'ble Supreme Court has held as follows:-

"Conclusions

68. Thus, having examined the rival contentions in the context of the constitutional scheme, we conclude as follows:

(i) The fundamental rights, enshrined in Part III of the Constitution, are inherent and cannot be extinguished by any constitutional or statutory provision. Any law that abrogates or abridges such rights would be violative of the basic structure doctrine. The actual effect and impact of the law on the rights guaranteed under Part III has to be taken into account in determining whether or not it destroys the basic structure.

(ii) Article 21 of the Constitution in its broad perspective seeks to protect the persons of their lives and

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personal liberties except according to the procedure established by law. The said article in its broad application not only takes within its fold enforcement of the rights of an accused but also the rights of the victim. ***The State has a duty to enforce the human rights of a citizen providing for fair and impartial investigation against any person accused of commission of a cognizable offence, which may include its own officers. In certain situations even a witness to the crime may seek for and shall be granted protection by the State.***

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(vii) When the Special Police Act itself provides that subject to the consent by the State, CBI can take up investigation in relation to the crime which was otherwise within the jurisdiction of the State police, the Court can also exercise its constitutional power of judicial review and direct CBI to take up the investigation within the jurisdiction of the State. The power of the High Court under Article 226 of the Constitution cannot be taken away, curtailed or diluted by Section 6 of the Special Police Act. Irrespective of there being any statutory

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provision acting as a restriction on the powers of the Courts, the restriction imposed by Section 6 of the Special Police Act on the powers of the Union, cannot be read as restriction on the powers of the constitutional courts. Therefore, exercise of power of judicial review by the High Court, in our opinion, would not amount to infringement of either the doctrine of separation of power or the federal structure.

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 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 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." (emphasis supplied)*

23. The Hon'ble Supreme Court in the case of

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Subrata Chattoraj vs. Union of India & Ors. reported as ***(2014) 8 SCC 768***, has held that transfers have been directed by Constitutional Courts even in cases where the family members of the victim killed in a firing incident had expressed apprehensions about the fairness of the investigation. Further, in the case of ***Mithilesh Kumar Singh vs. State of Rajasthan & Ors.*** reported as ***(2015) 9 SCC 795***, a three Judges Bench of the Hon'ble Supreme Court has held as follows:-

> *"11. Such being the importance of fair and proper investigation, this Court has in numerous cases arising out of several distinctly different fact situations exercised its power of transferring investigation from the State / jurisdictional police to the Central Bureau of Investigation under the Delhi Police Establishment Act. There was mercifully no challenge to the power of this Court to direct such a transfer and in my opinion rightly so as the question whether this Court has the jurisdiction to direct transfer stands authoritatively settled by the Constitution Bench of this Court in State of W.B. v. Committee for Protection of Democratic Right.*
>
> ....
>
> *15.* ***Suffice it to say that transfers have been ordered in varied situations but while doing so the test applied by the Court has always been whether a direction for***

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transfer, was keeping in view the nature of allegations, necessary with a view to making the process of discovery of truth credible. What is important is that this Court has rarely, if ever, viewed at the threshold the prayer for transfer of investigation to CBI with suspicion. There is no reluctance on the part of the Court to grant relief to the victims or their families in cases, where intervention is called for, nor is it necessary for the petitioner seeking a transfer to make out a cast-iron case of abuse or neglect on the part of the State Police, before ordering a transfer. Transfer can be ordered once the Court is satisfied on the available material that such a course will promote the cause of justice, in a given case.

... ...

22. *It is true that the prayer for transfer of investigation from the State Police to CBI can be allowed only in rare and exceptional circumstances when fair investigation by the State Police does not inspire confidence on account of any external influence or otherwise as held in State of W.B. v. Committee for Protection of Democratic Rights [(2010) 3 SCC 571 : (2010) 2 SCC (Cri) 401]. There can be no cast-iron parameters and whether an exceptional situation has arisen may be determined by the Court by taking an overview of the fact situation of a*

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particular case. In the present case, we do not consider it necessary to blame the college authorities or the local police but we are also unable to reject the apprehension of the petitioner and his prayer for transfer of investigation. The death of a young girl student has taken place in mysterious circumstances. According to the petitioner, the statement of the girl was not recorded even though it could have been done and thus, truth has not come out. In these circumstances, without expressing any opinion on merits, it will be appropriate that the matter is investigated by CBI." (emphasis supplied)

24. In ***Pooja Pal vs. Union of India & Ors.*** reported as ***(2016) 3 SCC 135***, the Hon'ble Supreme Court has held as follows:-

"*58.* ***It was declared in Zahira Habibulla case [Zahira Habibulla H. Sheikh v. State of Gujarat, (2004) 4 SCC 158 that the courts have to ensure that the accused persons are punished and that the might or the authority of the State is not used to shield themselves and their men and it should be ensured that they do not wield such powers, which under the Constitution has to be held only in trust for the public and society at large. That if any deficiency in investigation or prosecution is visible or can be perceived by lifting the veil covering such deficiency, the courts have***

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to deal with the same with an iron hand appropriately within the framework of law, was underlined.

59. *Referring to its earlier decision in Karnel Singh v. State of M.P. (1995) 5 SCC 518, it was reiterated that in a case of a defective investigation, the court has to be circumspect in evaluating the evidence and may have to adopt an active and analytical role to ensure that truth is found by having recourse to Section 311 of the Code or at a later stage also resorting to Section 391 instead of throwing hands in the air in despair. It recalled as well its observations in Ram Bihari Yadav v. State of Bihar (1998) 4 SCC 517, that the courts are installed for justice-oriented mission and thus, if a negligent investigation or omissions or lapses due to perfunctory investigation are not effectively rectified, the faith and confidence of the people would be shaken in the law-enforcing agency and also in the institution devised for administration of justice.*

60. ***Though, as referred to hereinabove, trial was completed and the accused persons were acquitted, in the textual facts, this Court in Zahira Habibulla case [Zahira Habibulla H. Sheikh v. State of Gujarat, (2004) 4 SCC 158 did direct retrial as prayed for, to avoid subversion of the justice delivery system and ordered the investigating agency or those supervising***

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the investigation to act in terms of Section 173(8) of the Code as the circumstances would so warrant.

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77. *In Gudalure M.J. Cherian [Gudalure M.J. Cherian v. Union of India, (1992) 1 SCC 397], this Court in a petition under Article 32 of the Constitution of India, lodged in public interest, did after taking note of the fact that charge-sheet had already been submitted, direct CBI to hold further investigation in respect of the offence involved. In recording this conclusion, this Court did take note of the fact that the nuns who had been the victim of the tragedy did not come forward to identify the culprits and that as alleged by the petitioners, the four persons set up by the police as accused were not the real culprits and that the victims were being asked to accept them to be so.* ***The paramount consideration for the direction issued was to secure justice between the parties and to instil confidence in public mind. The same imperative did impel this Court to issue a similar direction for fresh investigation by CBI in Punjab and Haryana High Court Bar Assn. [Punjab and Haryana High Court Bar Assn. v. State of Punjab, (1994) 1 SCC 616. Here as well the investigation otherwise had been completed and charge-sheet was submitted.***

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81. ***<u>The judicially propounded propositions on the aspects of essentiality and justifiability for assignment of further investigation or reinvestigation to an independent investigating agency like CBI, whether or not the probe into a criminal offence by the local/State Police is pending or completed, irrespective of as well, the pendency of the resultant trial have concretised over the years, applicability whereof, however, is contingent on the factual setting involved and the desideratum for vigilant, sensitised and even-handed justice to the parties.</u>***

83. *A "speedy trial", albeit the essence of the fundamental right to life entrenched in Article 21 of the Constitution of India has a companion in concept in "fair trial", both being inalienable constituents of an adjudicative process, to culminate in a judicial decision by a court of law as the final arbiter. There is indeed a qualitative difference between right to speedy trial and fair trial so much so that denial of the former by itself would not be prejudicial to the accused, when pitted against the imperative of fair trial. As fundamentally, justice not only has to be done but also must appear to have been done, the residuary jurisdiction of a court to direct further investigation or re-investigation by any impartial agency, probe by the State*

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Police notwithstanding, has to be essentially invoked if the statutory agency already in charge of the investigation appears to have been ineffective or is presumed or inferred to be not being able to discharge its functions fairly, meaningfully and fructuously. ***As the cause of justice has to reign supreme, a court of law cannot reduce itself to be a resigned and a helpless spectator and with the foreseen consequences apparently unjust, in the face of a faulty investigation, meekly complete the formalities to record a foregone conclusion. Justice then would become a casualty. Though a court's satisfaction of want of proper, fair, impartial and effective investigation eroding its credence and reliability is the precondition for a direction for further investigation or reinvestigation, submission of the charge-sheet ipso facto or the pendency of the trial can by no means be a prohibitive impediment. The contextual facts and the attendant circumstances have to be singularly evaluated and analysed to decide the needfulness of further investigation or reinvestigation to unravel the truth and mete out justice to the parties. The prime concern and the endeavour of the court of law is to secure justice on the basis of true facts which ought to be unearthed through a committed, resolved and a***

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<u>competent investigating agency.</u>

84. *As every social order is governed by the rule of law, the justice dispensing system cannot afford any compromise in the discharge of its sanctified role of administering justice on the basis of the real facts and in accordance with law. This is indispensable, in order to retain and stabilise the faith and confidence of the public in general in the justice delivery institutions as envisioned by the Constitution.*

85. *As succinctly summarised by this Court in Committee for Protection of Democratic Right [State of W.B. v. Committee for Protection of Democratic Rights, the extraordinary power of the constitutional courts in directing CBI to conduct investigation in a case must be exercised sparingly, cautiously and in exceptional situations, when it is necessary to provide credibility and instil confidence in investigation or where the incident may have national or international ramifications or where such an order may be necessary for doing complete justice and for enforcing the fundamental rights. In our comprehension, each of the determinants is consummate and independent by itself to justify the exercise of such power and is not interdependent on each other.*

86. ***<u>A trial encompasses investigation, inquiry, trial, appeal and retrial i.e. the entire</u>***

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range of scrutiny including crime detection and adjudication on the basis thereof. Jurisprudentially, the guarantee under Article 21 embraces both the life and liberty of the accused as well as interest of the victim, his near and dear ones as well as of the community at large and therefore, cannot be alienated from each other with levity. It is judicially acknowledged that fair trial includes fair investigation as envisaged by Articles 20 and 21 of the Constitution of India. Though well-demarcated contours of crime detection and adjudication do exist, if the investigation is neither effective nor purposeful nor objective nor fair, it would be the solemn obligation of the courts, if considered necessary, to order further investigation or reinvestigation as the case may be, to discover the truth so as to prevent miscarriage of the justice. No inflexible guidelines or hard-and-fast rules as such can be prescribed by way of uniform and universal invocation and the decision is to be conditioned to the attendant facts and circumstances, motivated dominantly by the predication of advancement of the cause of justice.*"*
(emphasis supplied).

25. The Hon'ble Supreme Court in the case of ***Neetu Kumar Nagaich vs. State of Rajasthan & Ors.*** reported as ***(2020) 16 SCC*** *777 has held as under:-*

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"10. Normally when an investigation has been concluded and police report submitted under Section 173(2) of the Code, it is only further investigation that can be ordered under Section 173(8) of the Code. But where the constitutional court is satisfied that the investigation has not been conducted in a proper and objective manner, as observed in Kashmeri Devi v. Delhi Admn. 1988 Supp SCC 482, fresh investigation with the help of an independent agency can be considered to secure the ends of justice so that the truth is revealed. The power may also be exercised if the court comes to the conclusion that the investigation has been done in a manner to help someone escape the clutches of the law. ***In such exceptional circumstances the court may, in order to prevent miscarriage of criminal justice, direct de novo investigation as observed in Babubhai v. State of Gujarat (2010) 12 SCC 254****. A fair investigation is as much a part of a constitutional right guaranteed under Article 21 of the Constitution as a fair trial, without which the trial will naturally not be fair. The observations in this context in Babubhai [Babubhai v. State of Gujarat, (2010) 12 SCC 254 are considered relevant at para 45 as follows: (SCC p. 272)*

"45. Not only fair trial but fair

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investigation is also part of constitutional rights guaranteed under Articles 20 and 21 of the Constitution of India. Therefore, investigation must be fair, transparent and judicious as it is the minimum requirement of rule of law. The investigating agency cannot be permitted to conduct an investigation in a tainted and biased manner. Where non-interference of the court would ultimately result in failure of justice, the court must interfere. In such a situation, it may be in the interest of justice that independent agency chosen by the High Court [Ganeshbhai Jakshibhai Bharwad v. State of Gujarat, 2009 SCC OnLine Guj 12130] makes a fresh investigation."

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13. *In Dharam Pal v. State of Haryana [Dharam Pal v. State of Haryana, (2016) 4 SCC 160, it was noticed that the power of the constitutional court to order fresh or de novo investigation could also be exercised after commencement of the trial and the examination of some witnesses could not be an impediment, observing as follows: (SCC p. 170, para 25)*

25. ... The power to order fresh, de novo

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or re-investigation being vested with the constitutional courts, the commencement of a trial and examination of some witnesses cannot be an absolute impediment for exercising the said constitutional power which is meant to ensure a fair and just investigation. ... It is the bounden duty of a court of law to uphold the truth and truth means absence of deceit, absence of fraud and in a criminal investigation a real and fair investigation, not an investigation that reveals itself as a sham one. It is not acceptable. It has to be kept uppermost in mind that impartial and truthful investigation is imperative."

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17. *We, therefore, set aside the closure report and direct a de novo investigation by a fresh team of investigators to be headed by a senior police officer of the State consisting of efficient personnel well conversant with use of modern investigation technology also. No officer who was part of the investigating team leading to the closure report shall be part of the team conducting de novo investigation.*

18. *Much time has passed and there is*

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> *undoubtedly an urgency in the matter now. We therefore direct that such fresh investigation must be concluded within a maximum period of two months from today and the police report be filed before the court concerned whereafter the matter shall proceed in accordance with law." (emphasis supplied)*

26. From the afore-quoted judgments, it is clear that that Constitutional Courts certainly have the constitutional authority to direct for a fresh investigation, re-investigation, *de novo* investigation, or even, in appropriate cases, where the facts of the case so warrant, the Courts can transfer the investigation to an independent or specialized agency such as the C.B.I.

27. It is equally settled that a fair investigation is an indispensable component of fair trial, and fair trial itself is an inalienable facet of Article 21. This right to a fair investigation is not just confined to the accused alone, but also extends equally to the victim and to the society at large. A criminal trial resting on a myopic, defective, one-sided, perfunctory or tainted investigation would itself stand vitiated in substance, even if procedurally it may be regular, since it would fail to bring the whole and complete truth to the forefront.

28. Therefore, it is the bounden duty of Constitutional Courts to intervene where the investigative

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process ceases to inspire confidence or appears incapable of bringing the whole and real truth on record. The object of such intervention is to ensure that the administration of criminal justice does not culminate in a miscarriage of justice based upon a distorted or incomplete factual foundation.

29. It is also clear that submission of the charge-sheet or closure report does not denude the Constitutional Court of its jurisdiction to direct further investigation, re-investigation, or transfer to an independent investigating agency.

30. At the same time, the law is equally clear that this power is extraordinary in nature and cannot be invoked as a matter of routine or on mere asking. No person has a vested right to insist upon investigation by a particular agency of choice. An informant or victim may legitimately demand a fair, impartial and effective investigation, but cannot, as of right, claim that such investigation must be conducted only by the CBI or any other specialized agency.

31. Turning to the facts of the present case, from the perusal of the case records, it is clear that the suspected accused persons were not named in the F.I.R. on the alleged insistence of the S.H.O. of Birpur Police Station. More importantly, from the perusal of the case diary, it appears that

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the statement of one of the aforesaid suspected accused was not recorded by the investigating officer.

32. In a case of unnatural death, which appears to be suicide, it is imperative for the investigating officer to conclusively establish suicide. In the present case, there is no suicide note or verifiable psychological suicidal history supported by the independent witnesses to bring home the factum of suicide. The sole statement of the alleged suspected accused Rohit Kumar could not be the sole ground to point towards a pre-existing suicidal tendency of the deceased mother of the petitioner since the aforesaid Rohit Kumar is not only one of the suspected accused but his brother is also a suspected accused, who is alleged to have had taken Rs.15,00,000/- from the deceased mother of the petitioner as per the version of the petitioner. Therefore, a bald statement before the police that one fine day the aforesaid Rohit Kumar had seen the deceased mother trying to pour kerosene on herself does not establish conclusively the suicidal tendency.

33. Further, from the perusal of the records of the case, it appears that the investigation since its inception has been on the presumption that the deceased, that is, the mother of the petitioner, had committed suicide. The primary purpose of

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the investigation is fact finding and finding the truth, therefore, it is incumbent upon the investigating officer to conduct a holistic investigation to uncover the actual truth. Proceeding with a myopic view would not only fail to bring the truth to the forefront but also be a gross miscarriage of justice.

34. Further, the inquest report prepared by the police at the place of occurrence, the postmortem of the deceased conducted at Sadar Hospital, Begusarai, as well as the special opinion sought by this Court from the Head of the Department, Forensic Medicine and Toxicology, P.M.C.H., Patna would, though point towards the conclusion that the mother of the petitioner had committed suicide inside the school premises where she was working as warden but, the postmortem report or the medico-legal opinion cannot be sole ground to establish suicide conclusively. A postmortem report or a medico-legal opinion is an important corroborative evidence but, it could not qualify as a substantive evidence to conclusively establish suicide. Where the investigation seeks to proceeds on a theory of suicide, such theory, must be supported by reliable material and must, therefore, be properly investigated. A premature or unsupported labeling of an unnatural death as suicide is inconsistent with the constitutional requirement of a

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fair and proper investigation.

35. It is trite law that medico-legal opinions have a corroborative evidentiary value but cannot be the sole ground based on which an inescapable conclusion is drawn, particularly, when there are admitted suspicious elements surrounding the death of the mother of the petitioner. The fact that the CCTV cameras installed inside the school premises were functioning perfectly well up until 7:18 hours when it was switched off, and the aforesaid cameras were switched on at 13:24 hours.

36. The contention of the petitioner is that the allegedly suspected accused Kaushal Kumar had taken Rs.15,00,000/- from the mother of the petitioner in lieu of transferring a piece of land. However, from the perusal of the case records, it appears that though the investigating officer had analyzed the CDR and CAF, yet they failed to record the statement of aforesaid Kaushal Kumar. Therefore, it appears that the investigation did not holistically investigate the incident and proceeded with a preconceived presumption of suicide. No meaningful attempts also appears to have been made to investigate the abetment of suicide or whether the scene of crime was staged.

37. In view of the aforesaid discussions, this

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Court is of the considered opinion that the death of the deceased mother of the petitioner deserves to be re-investigated in order to bring to the forefront the actual and the whole truth. Accordingly, the closure report No.179 of 2021 dated 31.10.2021 submitted by the police in Birpur P.S. Case No.49 of 2021 is hereby quashed.

38. In such circumstances, the investigation of Birpur P.S. Case No.49 of 2021 is directed to be conducted *de novo* by Sri Vikas Vaibhav, Inspector General of Police, Bihar. Sri Vikas Vaibhav shall commence the fresh investigation of Birpur P.S. Case No.49 of 2021 forthwith and he shall be free to constitute his own team. The police officers of Begusarai district shall extend all cooperation in the expeditious investigation and supervision of this case. The investigation shall be conducted in a holistic and comprehensive manner in accordance with law.

39. Since this Court has directed for re-investigation of the case, the impugned order dated 09.04.2025 passed by the learned Judicial Magistrate, 1st Class, Begusarai, is hereby quashed and set aside.

40. Needless to state, this Court has not expressed any opinion on the merits of the case and the veracity of the materials collected during earlier investigation.

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41. With the aforesaid observations and directions, this application is allowed in the above terms.

42. Let a copy of this judgment be communicated through FAX or e-mail to the Director General of Police, Bihar as well as the Superintendent of Police, Begusarai forthwith for its compliance.

(Sandeep Kumar, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	09.01.2026
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