

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

WP No. 2528 of 2025

(VICTIM X Vs THE STATE OF MADHYA PRADESH AND OTHERS)

Dated : 20-05-2025

Shri Alok Vagrecha - Advocate for the petitioner.

Shri Swapnil Ganguly - Deputy Advocate General for respondents/State.

Shri Anvesh Shrivastava - Advocate for respondent No.2-RDVV.

In pursuance to the order passed by this Court on 19.05.2025, an affidavit has been produced under the signatures of Collector, Jabalpur, specifically pointing out the fact that he is not satisfied with the report submitted by the Committee and the manner in which the Committee has conducted the investigation in pursuance to the directions given by this Court on the earlier occasions.

The case in hand pertains to the complaint made by a woman employee in the department-RDDV against Vice Chancellor of the University regarding sexual harassment at work place which attracts the directions issued by the Hon'ble Supreme Court in the case of Vishaka vs State of Rajasthan reported in (1997) 6 SCC 241.

On the earlier occasion, in pursuance to the judgment passed by the Hon'ble Supreme Court in the case of Vishaka (supra), the State Government has forwarded the matter to the duly constituted Committee and the Committee has submitted detailed report in the matter. On perusal of the report, it is seen that complete material was not supplied to the Committee to

enable it to investigate the matter properly. No efforts were made by the Committee to collect the complete material as required. No efforts were made to collect the CCTV footage of the room wherein the incident took place being a material piece of evidence. It was informed that the CCTV camera is not functioning, therefore, the footage could not be collected. Merely on the statement, that CCTV camera of the said room was not functional, the report was submitted before this Court.

The fact of the matter is that there was an order passed on the earlier occasion dated 07.02.2025 wherein the counsel appearing for the respondent No.2-RDVV has given an undertaking that the CCTV footage is preserved but despite the same the CCTV footage was not preserved in the matter. Now they have taken a somersault pointing out the fact that the CCTV camera installed in that very room was not functioning. The stand taken by the respondent-RDVV's counsel and the observations in the report are contrary to each other. For the said purpose, this Court vide order dated 08.05.2025 directed the Collector, Jabalpur to look into the matter and to produce the report pertaining to CCTV footage. In pursuance to which, he has constituted a six-member committee to investigate into the matter and to place the compliance report before this Court.

The compliance report was placed before this Court in a sealed cover which was not found to be satisfactory. Therefore, vide order dated 19.05.2025, again the matter was sent back to the Collector District Jabalpur to look into the inquiry report and to give an affidavit pertaining to his satisfaction to the inquiry report and also to place all the material collected

by the Committee including the statements recorded, if any. However, today when the affidavit filed is seen, it clearly indicates that the Collector is not satisfied with the manner in which the inquiry is done by the Committee. The evaluation report which is produced by the Committee was not found to be satisfactory by the Collector District Jabalpur himself. He has categorically stated that he is not satisfied with the report of the Committee.

It is high-handedness on the part of the respondents-authorities in not getting the matter investigated properly despite the fact that there was serious complaint made by a female employee regarding sexual harassment at work place against the highest officer of the University i.e. Vice Chancellor of RDVV. The manner in which the investigation has been carried out carries out suspicion on the officials who have carried out the investigation. This gives an impression that they are hand in gloves with the officers of RDVV.

It is argued by the petitioner's counsel that the person against whom the allegations are made is having high political connections and is very influential, therefore, there is every possibility that the inquiry reports submitted are managed reports, because on two occasions, this Court gave opportunity to the authorities to investigate the matter properly. But the reports submitted were found to be dissatisfactory. A request is made to hand over the investigation to an external agency so that fair and impartial investigation can be carried out and justice be done with the victim.

Learned Deputy Advocate General appearing for the State as well as the counsel appearing for the RDVV fairly submit before this Court that they have no objection in handing over the matter to an external agency to enable

them to investigate the matter.

In the case of State of W.B. vs Committee for Protection of Democratic Rights reported in (2010) 3 SCC 571, a Five-Judge Bench of the Hon'ble Supreme Court has held that Constitutional Courts are fully empowered to direct for CBI investigation. It further observed thus :

“70....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.”

Further, the Hon'ble Supreme Court in the case of Mithilesh Kumar Singh vs State of Rajasthan reported in (2015) 9 SCC 795 has held as under :

“12. Even so the availability of power and its exercise are two distinct matters. This Court does not direct transfer of investigation just for the asking nor is transfer directed only to satisfy the ego or vindicate the prestige of a party interested in such investigation. The decision whether transfer should or should not be ordered rests on the Court's satisfaction whether the facts and circumstances of a given case demand such an order. No hard-and-fast rule has been or can possibly be prescribed for universal application to all cases. Each case will obviously depend upon its own facts. What is important is that the Court while exercising its jurisdiction to direct transfer remains sensitive to the principle that transfers are not ordered just because a party seeks to lead the investigator to a given conclusion. It is only when there is a reasonable apprehension about justice becoming a victim because of shabby or partisan

investigation that the Court may step in and exercise its extraordinary powers. The sensibility of the victims of the crime or their next of kin is not wholly irrelevant in such situations. After all transfer of investigation to an outside agency does not imply that the transferee agency will necessarily, much less falsely implicate anyone in the commission of the crime. That is particularly so when transfer is ordered to an outside agency perceived to be independent of influences, pressures and pulls that are commonplace when State Police investigates matters of some significance. The confidence of the party seeking transfer in the outside agency in such cases itself rests on the independence of that agency from such or similar other considerations. It follows that unless the Court sees any design behind the prayer for transfer, the same must be seen as an attempt only to ensure that the truth is discovered. The hallmark of a transfer is the perceived independence of the transferee more than any other consideration. Discovery of truth is the ultimate purpose of any investigation and who can do it better than an agency that is independent.

13. Having said that we need to remind ourselves that this Court has, in several diverse situations, exercised the power of transfer. In Inder Singh v. State of Punjab this Court transferred the investigation to CBI even when the investigation was being monitored by senior officers of the State Police. So also in R.S. Sodhi v. State of U.P. investigation was transferred even when the State Police was doing the needful under the supervision of an officer of the rank of an Inspector General of Police and the State Government had appointed a one-member Commission of Inquiry headed by a sitting Judge of the High Court to enquire into the matter. This Court held that however faithfully the police may carry out the investigation the same will lack credibility since the allegations against the police force involved in the encounter resulting in the killing of several persons were very serious. The transfer to CBI, observed this Court, “would give reassurance to all those concerned including the relatives of the deceased that an independent agency was looking into the matter”.

14. Reference may also be made to the decision of this Court in State of Punjab v. CBI wherein this Court upheld the order transferring investigation from the State Police to CBI in connection with a sex scandal even when the High Court had commended the investigation conducted by the DIG and his

team of officers. In Subrata Chattoraj v. Union of India, this Court directed transfer of the Chit Fund Scam in the States of West Bengal and Orissa from the State Police to CBI keeping in view the involvement of several influential persons holding high positions of power and influence or political clout.

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 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.”

Looking to the facts and circumstances of the case as well as the fact that twice the investigation carried out by the authorities was not found to be proper creating suspicion on the working of the Committees to investigate the sensitive complaint made by a female employee against the highest officer of the RDVV, this Court deems it appropriate to hand over the matter to the third and independent agency to investigate the matter.

Accordingly, the Director General of Police, Madhya Pradesh is directed to constitute an Special Investigation Team (SIT) consisting of three senior IPS officers, out of them one should necessarily be a woman officer not below the rank of Superintendent of Police. The officers should not be from District Jabalpur. The SIT to be necessarily constituted within 3 days and to be headed by an officer not below the rank of Inspector General of Police. The SIT to investigate into the matter and submit the report for

perusal of this Court on or before the next date of hearing.

The report of the six-member committee is kept in a sealed cover. The respondents are directed to hand over the complete documentations regarding investigation etc. to the members of the SIT. The earlier reports which were submitted before this Court may be collected by the members of the SIT from the Registry of the Court within 3 days from the date of its formation. The remaining documents which are in possession of the respondents-authorities are directed to be handed over to the members of the SIT within 3 days.

List in the week commencing 16.06.2025.

(VISHAL MISHRA)
JUDGE