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IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

CIVIL WRIT PETITION (CRL.) NO. 212 OF 2017
(Under Article 32 of the Constitution of India)

IN THE MATTER OF:-

MRS. UMADEVI MALLINATH KALBURGI,

age- 68 year, occupation- Housewife, Residing at-
Souljanya, 9th Cross, Kalyan Nagar, Dharwad,
Karnataka 580007.

... PETITIONER

VERSUS

1. **UNION OF INDIA**, through the Home Secretary, Ministry of Home Affairs, Government of India, North Block Central Secretariat, New Delhi - 110001.
2. **THE STATE OF KARNATAKA** through the Additional Chief Secretary (Home), Home Department, Room No.222, II Floor, Vidhana Soudha, Bengaluru - 560001
3. **THE STATE OF MAHARASHTRA** through the Additional Chief Secretary (Home), Home Department, Dr. Madam Cama Road, Mantralaya Mumbai-400032..
4. **CENTRAL BUREAU OF INVESTIGATION** (CBI) through Director, Plot No. 5-B, 6th Floor,

CGO Complex, Lodhi Road, Jawaharlal Nehru
Stadium Marg, New Delhi, Delhi 110003

5. THE STATE OF GOA through Additional Chief
Secretary (Home), Home Department,
Secretariat, Porvorim-Goa.

6. NATIONAL INVESTIGATION AGENCY
through its Director General, CGO Complex,
Lodhi Road, New Delhi-110003.

... RESPONDENTS

WRIT PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA FOR ISSUANCE OF A
WRIT IN THE NATURE OF MANDAMUS OR ANY
OTHER APPROPRIATE WRIT, ORDER OR
DIRECTIONS TO RESPONDENT NO. 3 APPOINTING
AN INDEPENDENT SPECIAL DEDICATED
INVESTIGATION TEAM OF KARNATAKA POLICE
UNDER SUPERVISION OF THE RETIRED JUDGE OF
SUPREME COURT OR HIGH COURT TO CONDUCT AN
INVESTIGATION INTO THE CONSPIRACY AND
GRUESOME MURDER OF LATE PROFESSOR M. M.
KALBURGI AND SEEKING CERTAIN DIRECTIONS TO
OTHER RESPONDENTS TO EXTEND CO-OPERATION
TO SUCH INVESTIGATION TEAM AND
PROACTIVELY PROVIDE SUPPORT FOR
INVESTIGATION

To,

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THE HON'BLE THE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF THE
HON'BLE SUPREME COURT OF INDIA.

The Humble petition of the Petitioner above named: -

MOST RESPECTFULLY SHOWETH

1. That the petitioner is a citizen of India and seeks your lordships leave to prefer a Writ Petition in this Hon'ble Court under Article 32 of the Constitution of India as the fundamental rights of the Petitioner as well as other citizens enshrined in Articles 14, 19(1)(a) and 21 of the Constitution of India are Infringed by Inaction on the part of the Respondents. The Petitioner has filed the present Petition seeking reliefs in the matter of murder of her husband on 30.08.2015. The said murder is unresolved even today and there is no progress in the ongoing investigation. Therefore, the Petitioner who herself is aggrieved her fundamental rights are infracted. Therefore, the present Petition under Article 32 is maintainable.

Details of the Petitioner

The Petitioner is the wife of noted writer Late Professor Mallinath Madivalappa Kalburgi. Professor M. M. Kalburgi was an Indian scholar of Vachana sahitya (Vachana literature) and academic who served as the vice-chancellor of Kannada University in Hampi. A noted epigraphist of Kannada, he was awarded the National Sahitya Akademi Award. He was

spearheading anti-superstition campaign and was strongly canvassing for *Basava* philosophy. The poetry of Basavanna was popularly known as Vachanaas. The philosophy can be summarized as a "Philosophy of Universal Oneness". The philosophy also preaches for equality. Professor Kalburgi while educating society on Vachanaas also attempted to eradicate complexes of superiority or inferiority. He preached for equality of women and rejected caste system. He was a recipient of numerous national and state level awards including the Karnataka Sahitya Academy Award, Kendra Sahitya Award, Janapada Award and Basava Puraskar. He was an upstanding, public-spirited citizen who lived and worked in India and had the greatest love for this country and faith in the rule of law. He was highly accomplished citizen and his work has been duly recognized by the Respondents as well as national and international bodies. He contributed to the social and cultural development of India through his writing.

Details of Respondents

The Respondent No.1 is the Union of India. The Respondent Nos. 4 and 6 are under direct control of Respondent No. 1. The Respondent No.1 is responsible for ensuring that fundamental rights such as freedom of speech and expression are maintained throughout the country. The Respondent No.1 is also expected to provide support to a State

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in case of investigation requires involvement of more than one State as well as central agencies. The Respondent No. 1 is only can deal with accused. If they have fled from country. The murder of Dr. Narendra Dabholkar is investigated by the C.B.I. C.B.I. has vital information therefore Respondent No. 1 is a necessary party. The Respondent No. 2 State of Karnataka is a State within jurisdiction Professor Kalburgi was shot dead and murder is being investigated by the Karnataka Police. Therefore, the State of Karnataka is also necessary party. The Respondent No. 3 is the State of Maharashtra. Dr. Narendra Dabholkar and Comrade Govind Pansare were killed in the State of Maharashtra. One of the weapons used in murder of Comrade Pansare was also used in murder of late Professor Kalburgi. The investigation of murder of late Professor Kalburgi requires co-ordination between the Maharashtra Police as well as the Karnataka Police besides the C.B.I. and the N.I.A.. The organization involved in the murder also appears to be one. The shooters are also likely to be same. Therefore, the State of Maharashtra is also necessary party. Besides this, the State of Maharashtra and the C.B.I. are submitting reports to the Hon'ble High Bombay Court. The said information may have to be placed before the Hon'ble Supreme Court for monitoring the murder of late Professor Kalburgi. The Goa Government i.e. the Respondent No. 4 has a crucial role in all the three murder

cases. The shooters in Dr. Dabholkar and Comrade Pansare⁶ case are also accused in Goa bomb blast case. N.I.A. is also seeking arrest of shooters in both the murders in connection with crime in Goa. However, the State of Goa is sitting quietly on the spacious plea that investigation is handed over to N.I.A. and therefore, the State of Goa has no role to play. However, if proper investigation is required at the stage while monitoring investigation of murder of late Professor Kalburgi, the State of Goa also should be before this Hon'ble Court. The Petitioner further states that the accused named in bomb blast in the year 2009 was investigated by the N.I.A. The said agency is a special agency constituted under National Investigation Agency Act, 2008. The said agency failed to arrest all the accused. The trial was conducted only against some accused. The trial resulted in acquittal and appeal against acquittal is pending before the Hon'ble Goa High Court. N.I.A. failed to arrest the shooters and therefore while monitoring, the N.I.A. is also required to be present before this Hon'ble Court. Maharashtra Police have sought help of N.I.A. Therefore, the N.I.A. is also arrayed as a necessary party. Since all the parties are required before this Hon'ble Court for monitoring of the investigation, the present Petition under Article 32 of Constitution of India is filed.

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1A. That the Petitioner has not approached any other authority for redressal of the grievances agitated in the present Petition.

2. That the brief facts giving rise to the Instant Writ Petition are as follows:

A. The Petitioner is the wife of noted writer Late Professor M. M. Kalburgi. He was a recipient of numerous national and state level awards including the Karnataka Sahitya Academy Award, Kendra Sahitya Award, Janapada Award and Basava Puraskar. He was shot on 30/08/2015 in his residence at Dharwad in Kalyan Nagar locality. The murder was organized in a professional manner. The husband of the Petitioner was shot at his residence at around 08.40 AM. The necessary particulars are stated in brief in F.I.R. dated 30.8.2015. Hereto annexed and marked as Annexure "P-1" (Page no. 37 to) is copy of the complaint dated 30.08.2015 filed by Mrs. R. S. Kinagi, daughter of Professor Kalburgi. Hereto annexed and marked as Annexure "P-2" (Page no. 38 to 40) is a copy of English translation of the F.I.R. dated 30.08.2015. After complaint, the said offence was registered u/s 302 r/w 34 of I.P.C.

B. Professor Kalburgi has written around 110 books on variety of subjects. His interpretation of 'Vachana Sahitya' had angered a particular section of the society. He was threatened with his life

in the year 1989 after a compendium of his research articles on Kannada Folk, Regional and Culture named 'Marga One' was published. Professor Kalburgi was actively involved in anti-superstition activities and was even pressing hard for anti-superstition law in Karnataka. Professor Kalburgi in a seminar in a Bangalore on 09/06/2014 expressed his views. On the same day at night, bottles were thrown at his residence along with pamphlets. The copy of the pamphlet is already handed over to the Karnataka Police. Therefore, a lot of purported social organizations were upset with his rationalistic views and he had been provided with police protection for some time. However, in first week of August, 2014, at the request of Kalburgi family the protection was removed so that he could interact freely with his research students.

C. That on 20.08.2013, rationalist Dr. Narendra Dabholkar was murdered in Pune at 07.15 AM by two motorcycle assailants while he was on his morning walk. Dr. Dabholkar was also canvassing for anti-superstition law. He was also canvassing against some of the religious practices followed in society. Although Dr. Narendra Dabholkar was murdered on 20.08.2013, there was no arrest in his murder even at the time of murder of Professor Kalburgi.

D. That during the pendency of investigation into murder of Dr. Narendra Dabholkar, noted Advocate, Social Activist and an

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office bearer of the Communist Party of India, Comrade Govind Pansare was shot along with his wife in broad day light when he was taking morning walk on 16.02.2015 at Kolhapur. He succumbed to bullet injuries in Mumbai on 20.02.2015. It is pertinent to note that late Comrade Pansare was also an anti-superstition activist and was vocal against some of the orthodox practices followed in Hindu religion and the same was opposed by same group of people who were against Professor Kalburgi and Dr. Dabholkar.

E. That families of both Dr. Narendra Dabholkar and Comrade Pansare approached the Hon'ble High Court of Judicature at Bombay as and by way of Criminal Writ Petition Nos. 3512/2015 and 1565/2015 respectively for monitoring of investigation. The Petitioner states that the Hon'ble Bombay High Court started monitoring investigation from 02.09.2015. The Hon'ble High Court heard both the petitions around twenty four times and started seeking progress report from the C.B.I. as well as from Special Investigation Team constituted by Government of Maharashtra regularly. Due to the orders/directions of Hon'ble High Court of Judicature at Bombay, the Government of Maharashtra deputed six officers from the Maharashtra Police to assist the C.B.I. in investigation. The Government of Maharashtra constituted Special

Investigation Team under the supervision of the Additional ¹⁰ Director General of Police, C.I.D., Pune.

F. That the link between murder of rationalist Dr. Dabholkar, social worker and trade union leader Comrade Pansare and Professor Kalburgi is established beyond a doubt in a ballistic test conducted by the C.B.I., Maharashtra Police and Karnataka Police. It strongly appears that there are two weapons used in murder of all three. One weapon was used in Dr. Dabholkar murder case. Same weapon was used in Comrade Pansare murder case. Beside this weapon, the weapon used in Professor Kalburgi case was also used by shooters in Comrade Pansare case. The relevant reports are available with respective Police as well as the C.B.I. The Petitioner has no access to the Ballistic Reports, though the reports have been widely quoted by print as well as electronic media.

G. That with a constant monitoring of investigation by High Court, the C.B.I. arrested one Dr. Virendra Tawade in connection with murder of Late Dr. Dabholkar and even filed Charge-sheet against him in the Sessions Court, Pune. The C.B.I. has identified one Sarang Akolkar and Vinay Pawar as the shooters and even collected evidence about shooters. Out of the said two Accused, Sarang Akolkar is arrayed as an Accused in the Goa case and is absconding since 2010. There is a red corner notice issued against him. The other accused Vinay Pawar is

also absconding after the said crime. C.B.I. is pursuing the shooters and The Hon'ble Bombay High Court is still monitoring the investigation.

H. That in case of murder of Comrade Govind Pansare, the Maharashtra Police also arrested one Sameer Gaikwad along with Dr. Virendra Tawade. The Maharashtra Police is trying to nab the shooters. The Maharashtra Police have also filed Charge-sheets against both the Accused.

I. That during the course of investigation of murder of Dr. Dabholkar and Comrade Pansare, there were only few meetings between officials of the C.B.I., Maharashtra Police and Karnataka Police. It appears that bullets fired in all the three murders were sent for forensic analysis to ballistic experts. It appears that all three murders were committed by a same group of people. The motive behind killing of all the three appears to be because of their strong stand against superstitious practices prevalent in our society.

J. That on 26.07.2016, the then Karnataka Home Minister G. Parmeshwara released first official statement on behalf of Government and stated that after the analysis of bullets by Karnataka Forensic Science Laboratory there is conclusive evidence to link of Professor Kalburgi's case with the of murder of Dr. Dabholkar and Comrade Pansare. As per the media report it was stated that forensic analysis of the cartridges

recovered from the three crime scenes and the bullet recovered ¹² from victims body had revealed a match between markings on bullets and cartridges in the murder of Professor Kalburgi and one set of bullet and cartridges in the murder of Comrade Govind Pansare and that the second set of bullets and cartridges found in Comrade Pansare's case were found to match the material in Dr. Dabholkar's case. Hereto annexed and marked as Annexure "P-3" (Page no. 41 to) is the copy of Article published in Indian Express on 26.07.2016.

K. That the investigation of Dr. Dabholkar is also not free from various lacunas. The Petitioner states that since the investigation of Dr. Dabholkar was handed over to the C.B.I. by the Hon'ble Bombay High Court on 09.05.2014, the C.B.I. was sitting over the investigation till September, 2015. The Petitioner states that the Government of Maharashtra had also not made progress and whatever progress is seen in investigation has started only after intervention of the Hon'ble Bombay High Court. However, the monitoring of the investigation by Hon'ble High Court of Bombay can be seen as there is no co-ordination between C.B.I., Maharashtra Police, Karnataka Police and N.I.A. Lack of co-ordination amongst the agencies can be seen from proceedings before Bombay High Court on 07.01.2016. On this date Ld. Additional Solicitor General representing the C.B.I. informed the Hon'ble High

Court that despite the request in writing, the Ballistic Report by Forensic Laboratory, Bengaluru is not provided to the S.I.T. Maharashtra as well as the C.B.I. by the Karnataka Police. The Ld. Additional Solicitor General, was earnestly for orders for the Karnataka Government. Therefore, the Hon'ble High Court was pleased to pass order on 07.01.2016 directing D.G.P. Maharashtra and Director, the C.B.I. to take the issue with the D.G.P. Karnataka to ensure that Ballistic Reports are made available to the S.I.T. of Maharashtra and the C.B.I. Hereto annexed and marked as Annexure "P-4" (Page no. 42 to 45.) Is copy of Order dated 07.01.2016 passed by High Court.

L. That there is no co-ordination between the State of Maharashtra, Union of India, State of Goa, State of Karnataka and N.I.A. Noted expert on literature and activist, recipient of Sahitya Academy Award and well known author Professor Ganesh Devy met Chief Minister of Karnataka Government along with Professor Rajendra Chenni, Dr. Surekha Devi and Dr. Megha Pansare on 26/08/2017. The Petitioner is at pains to state that during this meeting it was found that Karnataka Government was under the impression that bullets are sent by the C.B.I. to Scotland when bullets were in fact already examined by Central Forensic Laboratory, Gujarat and this was known to everybody through media. The Karnataka Government thereafter released press statement in Kannada.

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Hereto annexed and marked as **Annexure "P-5"** (Page no. ⁴⁶ to ⁴⁷) is the English translated copy of the said statement dated 28.08.2017. The said statement do not disclosed any concrete steps on the part of Karnataka Government.

M. That though finally it was concluded that two weapons were used in Dr. Dabholkar, Comrade Pansare and Professor Kalburgi murder case, there appears to be some discrepancy in forensic reports. Therefore, statements were made for almost one year before the Hon'ble High Court of Judicature at Bombay stating that the bullets in question would be sent to the Scotland Yard for forensic examination.

N. That although sketches of the suspects were released after four days of murder of Professor Kalburgi and official statement was issued by the Karnataka Government stating that conclusive evidence of link of nexus of murders of all three activists was found, there has been no progress in investigation till date. The Petitioner states that as per media report published on 12/05/2017, the then State of Karnataka's Home Minister Dr. G. Parmeshwara has stated that no new leads in the case have been found and nothing concrete has come out of it. Hereto annexed and marked as **Annexure "P-6"** (Page no. ⁴⁸ to) is the copy of Article published on online edition of One India www.oneindia.com on 12.05.2017.

O. That recently on 02.06.2017, a media report was published wherein the then outgoing Home Minister Mr. G. Parmeshwara on the day he resigned made a statement that they have information that the accused involved in the murder of Professor Kalburgi is in a foreign country and that the biggest manhunt in the history of Karnataka C.I.D. was underway to nab the culprit. Hereto annexed and marked as Annexure "P-7" (Page no. 49 to -) is the copy of Article published on online edition of One India www.oneindia.com on 02.06.2017.

P. During the hearing of the Petitions filed by Dr. Dabholkar and Comrade Pansare families that in the course of investigation Maharashtra Government even arrested two random people arrested for extortion on the day of murder of Dr. Dabholkar and were shown as a accused in Dr. Dabholkar murder and there custody was sought along with Ballistic Report showing that the weapon found in possession of these two people was used to kill Dr. Dabholkar.

Q. That inability of the State of Karnataka as well as other States who are also responsible for nabbing the accused and inability of central investigating agencies namely the C.B.I. and the N.I.A. has violated fundamental rights conferred under various Articles of the Constitution of India. The husband of the Petitioner who was not only noted author but propagator of social reforms was murdered in broad daylight. There is no

progress in the murder even after 27 months. Therefore, ¹⁶ gross injustice is done not only to this Petitioner but also the society as a whole. Therefore, the Petitioner is constrained to file present Petition under Article 32. The Petitioner has placed on record involvement of three States as well as the C.B.I. and the N.I.A. and Union of India. Therefore, there will be limitations in approaching Hon'ble High Court under Article 226. In such a circumstances the Petitioner cannot be compelled to invoke Article 226 of the Constitution of India. The case of breach of fundamental rights as well as need for co-ordination amongst all three States as well as Union of India is made out. The case for formation of policy to deal with interstate crime is also placed on record. Therefore, this is the fit case for invocation of powers of the Hon'ble Supreme Court under Article 32 of the Constitution of India. The Petitioner states that involvement of three States in the matter by itself is a reason enough to entertain the present Petition under Article 32. The questions of Law raised in the Petition have implication on society all over country and there is also need to frame policy for investigation in murders where more than one State is involved. Therefore, the present Petition under Article 32 of the Constitution of India.

R. That there is a need for appointment of a nodal officer of the rank of Additional Director General of Police in every State to

co-ordinate and give immediate response to police investigating crime occurred in other State. There is also need to formulate elaborate policy in this regard.

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3. That the Petitioner has therefore raised the following Questions of Law in the present Petition:

A. Whether in the facts and circumstances of the case there is an urgent need of intervention by this Hon'ble Court particularly when delay in investigation in murders of rationalist in society through youths by propagators of radical philosophy may result into society losing faith in law and order?

B. Whether in the facts and circumstances of the case it is necessary to issue directions to the three States as investigation agencies of three states are involved in the investigation of the three murders along with two central agencies and especially when there is a lack of co-ordination amongst them?

C. Whether monitoring of investigation by person nominated by Hon'ble Supreme Court is required especially when three States and Union of India have failed to investigate murder of rationalist through youths who are instigated/provoked to commit murder?

D. Whether it is just and proper for this Hon'ble Court to exercise its powers under Article 32 to protect fundamental rights and to bestow confidence to society that there exists law and order

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especially when executive wings of the respective Government are ineffective and doing nothing?

E. Whether in the facts and circumstances of the case, it is necessary to handover the investigation to an independent Special Investigation Team when more than one State is involved and central agencies such as the C.B.I., N.I.A. along with the respective States have failed in their statutory duty of arresting the accused for years together and whether such investigation is required to be monitored by retired Judge of Supreme Court or High Court?

F. Whether the court can remain as a mute spectator to a situation when youths are driven to commit crime in a systematic manner and/or are advised or trained and influenced to commit crime like murder of activists in a broad day light who are expressing views against unethical practices in society and such murders remained unresolved for long time?

G. Whether this Hon'ble Court is required to interfere and monitor investigation of the present case where agency like the N.I.A. constituted under the National Investigation Agency Act, 2008 remained inactive and failed to nab culprits in serious offence like placing bombs in public place with a motive and such inaction resulted in murder of rationalist?

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H. Whether a policy is required to be framed for a co-ordination when more than one State, central agencies such as the C.B.I., N.I.A. and various State Police are involved in investigation of a crime?

I. Whether the State of Karnataka was right in taking shelter on the premise that investigation has reached to dead end and accused have fled out of country and allowed trial to dead end?

J. Whether fundamental rights of family of the deceased can be allowed to be affected severely especially when investigation is almost reached to a dead end and there is no progress for years and even if accused are found finally, trial may lead to acquittal of the accused due to delay?

K. When freedom of expression is guaranteed as one of the most important fundamental right in a democracy, whether murder of thinkers, rationalist who expressed their views without any fear or favour can be allowed to go without investigation or with lackluster investigation for a long time leading to likely acquittal?

L. Can a States be allowed to sit over investigation without there being any accountability of any State towards outcome of such an investigation and more particularly when thinkers/rationalist are shot dead in broad daylight by members of organization opposed to views of such a rationalist?

M. That on 06/09/2017 in the Petition of Dabholkar and Pansare²⁰ family Affidavit was placed on record and in the said Affidavit serious lapses on the part of Maharashtra Police necessitating transfer of case to C.B.I. were placed. The Bombay High Court has taken cognizance of the lapses and especially fact that an attempt was made by Police officers to show two random people as an accused. The Bombay High Court in its order dated 12/10/2017 has directed action against such police officers.

4. The Petitioner is an aggrieved person as her husband was shot dead on 30.08.2015. The investigation in the murder of her husband requires support of police from three States. Besides the involvement of three States, the Union of India is also required to discharge its duty. The Central Government agencies namely the C.B.I. as well as the N.I.A. are also required to be part of the investigation. Therefore, the Petitioner has approached the Hon'ble Supreme Court under Article 32 of Constitution of India with the present Petition seeking relief on following amongst other grounds each of which is set out without prejudice to the other.

GROUNDS

- A) Because failure of Police to bring accused to trial is an anti-thesis to spirit of the Constitution and amounts to violation of fundamental rights of society.

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B) Because the courts cannot remain as a mute spectator especially when youths are driven to commit crime in a systematic manner or are advised or trained and influence to commit crime like murder of activists in a broad day light, who are expressing views against unethical and orthodox practices in society and such a murders remained unresolved for long time.

C) Because the States are duty bound to co-ordinate and act like one State when offence has taken place in one State and co-operation is required from other States. Failure on the part of States amounts to violation of principles of natural justice.

D) Because the State is duty bound to investigate murder when someone is killed for espousing particular view and said view is not like by particular organization. Failure of the State along with other States violates fundamental rights guaranteed by Constitution.

E) Because in the unique facts and circumstances of the case any contrary view would leave the completed process of crime detection in the case wholly inconsequential and the judicial process impotent.

F) Because a court of law, to reiterate has to be an involved participant in the quest for truth and justice and is not

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expected only to officiate a formal ritual in a proceeding farseeing an inevitable end signaling travesty of justice. Mission justice so expectantly and reverently entrusted to the judiciary would then be reduced to a teasing illusion and a sovereign and premier constitutional institution would be rendered a suspect for its existence in public estimation. Considering the live and revered purpose for which judiciary exists, this would indeed be a price which it cannot afford to bear under any circumstance.

G) Because murder of right-minded social activists with blatant disregard to law and order is a direct assault on the rule of law, which is one of the fundamental tenets of any democratic society.

H) Because for a free and vibrant public discourse in any pluralistic society, it is just and necessary that its members of every ideology are allowed to speak their mind without any fear or favour.

I) Because investigation agencies are an important limb for ensuring the rule of law and any lethargy or failure of such an agency strikes at the very the root of rule of law.

J) Because since gruesome crime like blatant murder in this case is a crime against the whole society at large, it is just and

necessary that every central and state investigation machinery act as one without taking refuge of procedural and departmental hurdles.

- K) Because the faith in law and justice as well as its enforcement will be lost if free thinking citizen's lives are threatened just because they have participated in fair and rational criticism.
- L) Because the pendency of investigation in the present case without any concrete lead emerging therein is creating an impression that the State machinery and particularly the police machinery is not interested in bringing all the guilty to book.
- M) Because it is necessary to build up the confidence not only of the police and investigating machinery in India, but to send a right message across the world that no crime will go unpunished in this country and the guilty would be brought to book expeditiously with zero tolerance.
- N) Because this Hon'ble Court is required to interfere and monitor investigation of the present case where agency like N.I.A. constituted under the National Investigation Agency Act, 2008 remained inactive and failed to nab culprits in serious offence like placing bombs in public place with a motive and such a inaction leads to murder of the renowned author.

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- O) Because a policy is required to be framed for a co-ordination when more than one State, central agencies such as the C.B.I., N.I.A. various State Police are involved in investigation of crime.
 - P) Because the State of Karnataka erred in taking shelter that investigation has reached to dead end and accused have fled out of country and allowed trial to proceed without bringing the shooters on record.
 - Q) Because the fundamental rights of family of the deceased can not be allowed to be affected severely especially when investigation is almost dead and there is no progress for years and even if accused are found finally, trial may lead to acquittal of the accused for lack of evidence.
 - R) Because when freedom of expression is guaranteed as one of the most important fundamental rights in a democracy murder of thinkers, rationalist who expressed their views can not be allowed to go without investigation or with lack luster investigation for a long time leading to likely acquittal.
 - S) Because States cannot be allowed to sit over investigation without there being any accountability of State towards outcome of such an investigation and more particularly when

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thinkers/rationalist are shot dead in broad daylight by members of radical organization opposed to views of such a rationalist.

T) Because the investigation by the Karnataka Police has reached a dead-end as the investigation has not been able to identify the assailants. The investigation papers reveal no progress at all and credibility of investigation agency has gone down. Therefore, fair impartial and diligent investigation is necessary and this is the fit case to constitution of a special independent Special Investigation Team led by the Additional Director of General of Police, Karnataka, and comprising of officers of the ranks of Inspector General of Police, Deputy Inspector General of Police, Superintendent of Police and other Senior Officers of impeccable credentials to conduct an investigation into the conspiracy and gruesome murder of Professor M. M. Kalburgi on 30.08.2015 and to take all necessary consequential steps/actions pertaining thereto.

U) Because any further delay or slackness in the investigation process will not be in the interest of public at large and therefore, in order to ensure that prosecution agency is reminded of its responsibility and duties in the discharge of its function effectively and efficiently as well as to ensure that the criminal prosecution is carried on effectively and perpetrators of crime are duly punished under appropriate law, the

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investigation in public interest, should be handed over to such Special Investigation Team.

- V) Because the investigation in the present case is not being carried out in a manner in which it ought have been carried out and inability of the State to identify assailants shows that there is lethargy in investigation. Therefore, there is need to lift veil of incompetency for rectifying the deficiency in investigation that is visible for almost two years without any progress.
- W) Because the failure of the State of Karnataka to identify and bring accused before court of law is violation of Article 21 and therefore there is a need to protect rights of citizens guaranteed by Article 21.
- X) Because in order to protect fundamental rights and freedom to which all people in a state are entitled to, it is necessary to ensure that killers are brought to justice. Failure of the State of Karnataka in making any progress has led to violation of fundamental rights of citizens and therefore there is need to handover investigation to the SIT.
- Y) Because the investigation in murder of a noted literary scholar in the present case is of great public importance. He is the third allowed to go without investigation or with lack luster investigation for a long time leading to likely acquittal.
- S) Because States cannot be allowed to sit over investigation without there being any accountability of State towards outcome of such an investigation and more particularly when

Karnataka Government had promised speedy investigation, there has been no progress.

Z) Because the shooting took place on 30.8.2015 and even after a period of 23 months, the murderers are walking freely at large and the Karnataka CID is unable to arrest them and have recently made a statement that the culprits are outside India. This clearly shows the lethargic investigation done by the Karnataka CID and the deficiencies in the investigation are evident from the facts stated above. Therefore, the intervention of this Hon'ble court is accordingly necessary.

AA) Because the present case shows exceptional circumstances requiring the investigation to be transferred to the Special Investigation Team since the investigation being carried out by the Karnataka CID is by no means sufficient to apprehend the culprits. The killing of Professor Kalburgi closely mirrors the *modus operandi* followed by the killers of Dr. Dabholkar and Comrade Pansare and the killing of Professor Kalburgi has highlighted the shameful state of affairs prevailing now which is evident from the fact that rational thinkers and activists are not safe in this country till the time such culprits are arrested.

BB) Because the very fact that after the occurrence took place on 30th August 2015, there has been a serious lapse in apprehending any culprits or even persons who may lead to

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the culprits, discloses that there is a lack of seriousness by the prosecution agency in carrying out the investigation. The Petitioner states that it is the responsibility of the investigating agency to live upto to the expectation of the public at large and display that no stone will remain unturned to book the culprits and bring them to trial. However, the slackness that is being displayed in the investigation of the murder of Professor Kalburgi is not in public interest at large, and hence the urgent intervention of this Hon'ble Court is vital and necessary.

CC) Because the failure of investigation will affect the trial. Therefore there is urgency.

DD) Because the right to a proper, fair and speedy investigation forms a basic tenet of the right to a fair and speedy trial and is a fundamental right of citizens of India. The Petitioner states that the necessity of speedy investigation cannot be overemphasized as the longer an investigation takes, the less likely it is to yield results. The Petitioner states that in sensational crimes in which the society is interested not only on account of the crime being one against society, as is the nature of any crime. But where the victim of the crime is a person of social significance such as a social activist or a crusader against corruption, and particularly where the crime is committed apparently to silence or otherwise stifle the activities of such a

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social activist or crusader against corruption, it is absolutely essential for the investigative machinery to retain and maintain the confidence of the public. However, the killings of noted social workers in the past and the cluelessness of the Karnataka CID in the case of Professor Kalburgi, have led to people of all sections of society, including some of the political class as well as a former high-level police officer, to doubt the investigations that is being presently carried out.

EE) Because it is further necessary and important that this Hon'ble Court should monitor the investigation of Special Investigation Team in order to ensure proper conduct of the prosecution;

FF) Because, as held by the Hon'ble Supreme Court in *Bharati Tamang V/s Union of India*, decided on 08.10.2013, it is the responsibility of the Higher Judiciary to ensure that the prosecution agency is reminded of its responsibility and duties in the discharge of its functions effectively and efficiently and ensure that the criminal prosecution is carried on effectively and the perpetrators of crime are duly punished by the appropriate Court of law;

GG) Because the Petitioner is seeking orders from this Hon'ble Court to the effect that the dedicated Special Investigation Team may be constituted under supervision of retired Judge of Supreme Court or High Court. Considering the nature of the deceased,

the loss to society as a whole on account of his death, the high ³⁰ impact of the crime on the social consciousness, the fear and helplessness in the minds of the people of Karnataka and this country in the face of tyranny, corruption and lawlessness as grossly and starkly demonstrated by the criminals involved in and behind the assassination of Professor Kalburgi, the transfer of investigation to the Special Investigation Team and the same effectively finally monitored by this Hon'ble Court is the need of the day so as to ensure that the interest of the public at large can be duly safeguarded.

5. That the present Petitioner has not filed any other petition in any High Court or the Hon'ble Supreme Court of India on the subject matter of the present Petition.
6. Any other ground which this Hon'ble Court may allow the Petitioners to plead at the time of arguments.
7. The present Petition is filed bona fide and in the interests of justice.

PRAYER

In the above facts and circumstances, the Petitioner most respectfully prays that this Hon'ble Court may be pleased to:

- a) Issue a Writ of Mandamus or any other Writ, Order or Direction in the nature of Mandamus appointing Independent person either retired Judge of Supreme Court or High Court and of

directing Respondent No. 2 Government of Karnataka to appoint dedicated Special Investigation Team led by the Additional Director of General of Police, Karnataka, and comprising of expert officers of impeccable credentials to conduct an investigation into the conspiracy and gruesome murder of Professor M. M. Kalburgi on 30/08/2015 and to take all necessary consequential steps/actions pertaining thereto and direction to provide such Team necessary facilities as well as support. The directions also should include reporting to Hon'ble Supreme Court and no change in the team without permission of the Hon'ble Court;

- b) Direct the State of Maharashtra and the State of Goa to nominate particular police officer of the rank of Inspector General of Police (IGP) as a nodal officer to provide all support and information to Special Investigating Team constituted under prayer-clause (a) immediately and share details of investigation in murder of Dr. Dabholkar and Comrade Pansare;
- c) Seek immediate report from all the Respondent States involved and especially from the National Investigation Agency seeking efforts made by them to apprehend the accused named in the said crime and accused involved in Professor Kalburgi murder case along with reports from State of Maharashtra and C.B.I.;
- d) Formulate appropriate policy for investigation of inter-state crimes and the support of agency like the N.I.A. and the C.B.I.

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to various State agencies whenever and wherever it is required.

The said policy should mandate appointment of Nodal officer holding rank of Inspector General of Police in every State. The policy should also provide for timeframe for sharing information and coram of meetings;

- e) Monitor the investigation to be carried out by the Special Investigation Team sought to be constituted through the present Petition, till the time such investigation is reached to its logical conclusion;
- f) During the pendency of the hearing of the present petition, this Hon'ble Court be pleased to direct the Respondent to submit the periodic status report as to the progress made in the investigation in the case of murder of Professor M. M. Kalburgi;
- g) Interim/ad-Interim relief in terms of prayers made hereinabove;
- h) To grant such other and further relief as the nature and circumstances of the case may require.

FOR WHICH ACT OF KINDNESS, THE PETITIONER SHALL, AS IN DUTY BOUND, EVER PRAY.

DRAWN BY:-

FILED BY

(KRISHAN KUMAR)
ADVOCATE FOR THE PETITIONER

New Delhi

Filed on: 14/12/2017