

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.181 OF 2014

Sagunabai w/o Venkatrao Kande ... PETITIONER

VERSUS

The State of Maharashtra & ors. ... RESPONDENTS

.....
Shri A.P. Avhad, Advocate for petitioner
Shri M.M. Nerlikar, A.P.P. for State
.....

CORAM: S.S. SHINDE AND
A.I.S. CHEEMA, JJ.

DATED: 15th July, 2015.

ORAL ORDER :

1. This petition is filed with the following prayers:-

(A) Call for the record and proceedings of the case.

(B) Issue a writ of mandamus or any other appropriate writ, order or direction thereby directing the respondents to make further investigation of F.I.R. No.106/2012 registered with Parli Vajinath Police

Station (Rural), Taluka Parli Vaijnath, District Beed for offence punishable u/s.147, 148, 149 & 302 of Indian Penal Code, 1860 through State C.I.D. independently and for that purpose issue necessary writ, order or directions.

(C) Pass any other just and equitable orders in favour of the petitioner in the interest of justice."

2. The learned counsel appearing for the petitioner invited our attention to the documents placed along with the writ petition and also the papers of investigation, and submits that, the case was not properly investigated. In fact, death was homicidal as it is apparent from the injuries found on the person of the deceased. However, prosecution proceeded with the investigation, treating the death as accidental. There were other five persons in the company of the deceased soon before the incident and, therefore, by any stretch of imagination, it cannot be said that death occurred due to accident. Therefore, according to the learned counsel appearing for the petitioner, the investigation should be transferred to State C.I.D.

3. The learned A.P.P., relying upon the affidavit-in-reply

filed by the investigating officer, submits that, thorough investigation has been done. He invited our attention to the annexures to the reply and submits that the investigating officer has taken all efforts and investigation was sincere. Therefore, petition may be rejected.

4. We have heard the counsel appearing for the petitioner and learned A.P.P. for the State. With their able assistance, we have perused the entire material placed on record and also the investigation papers. Upon perusal of the material placed on record, prima facie it appears to this Court that investigation was in proper direction. There is no any extraordinary situation or circumstances which warrant transfer of the investigation to the State C.I.D. Therefore, we are not inclined to entertain the prayer for transfer of the investigation to the State C.I.D. However, in case the petitioner desires to approach the concerned Court for redressal of the grievance i.e. the manner in which the investigation has been done or for further investigation etc., the petitioner will be at liberty to approach before the trial Court. In case the petitioner approaches the trial Court, the trial Court shall not reject the application of the petitioner on the ground that same is not maintainable and decide the same on merits keeping in view the

judgment in the matter of **Sakiri Vasu Vs. State of U.P. & ors.**
reported in **AIR 2008 SC 907.**

Writ Petition stands disposed of in above terms.

(A.I.S. CHEEMA, J.)

(S.S. SHINDE, J.)

fmp/cwp181.14