

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

**CRIMINAL WRIT PETITION NO. 1402 OF 2015**

KAILASH S/O BABULALJI MANITHE  
VERSUS  
THE STATE OF MAHARASHTRA & OTHERS

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Advocate for Petitioner : Mr P.K. Palve  
APP for Respondents: Mr M M Nerlikar

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CORAM : S V GANGAPURWALA & V.K. JADHAV, JJ.  
Dated: December 09, 2015

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PER COURT :-

1. The petitioner claims to be the elder brother of husband of the deceased Ratnabai. Learned counsel for the petitioner states that an offence u/s 302 ought to be registered for causing the death of deceased Ratnabai. According to the learned counsel, investigation is not being properly made. Minor children were inside the house. Their statements were not recorded. Even dying declaration is not recorded. The deceased died on 22.8.2015 whereas the incident had taken place on 10.08.2015. The petitioner had submitted a detailed complaint with respondent no.3 expressing suspicion about death of deceased by burns and had requested to prosecute the concerned.

2. The learned APP submits that investigation is made. Statements are recorded and even dying declaration of the

deceased is recorded on 11.8.2015. In the dying declaration deceased has not implicated any person. On the contrary, she stated that she got burns while cooking food because of the flame of the stove. Even statements of other witnesses recorded. Hari is an eye witness his statement is also recorded, but he also does not implicate any person.

3. We have considered the submissions. The case history recorded by the doctor shows that when the deceased was admitted in the hospital, it was stated that she got burns because of the flame of the stove while cooking food. On the next day on 11.8.2015 dying declaration of the deceased was recorded. We have gone through the said dying declaration. In the said dying declaration deceased also does not implicate any person. On the contrary narrates about accidental burns. Hari is said to be present in the house. His statement is also recorded. Admittedly, the petitioner was not present on the scene of offence. The deceased died on 22.8.2015 and for the first time the complaint is filed on 26.8.2015 by the petitioner. During the period the deceased was alive. It does not appear that any further request was made for recording her dying declaration.

4. Considering the above aspect, the authorities have made necessary investigation and have recorded the statements.

5. In light of the above, prayer made in this writ petition cannot be considered. Writ Petition is disposed of.

**( V.K. JADHAV, J. )**

**( S V GANGAPURWALA, J. )**

aaa/-

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