

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO.87/2015

Smt. Gita Anandrao Dhargawe ..vs.. State of Maharashtra, through its Secretary,
Home Department, Mantralaya, Mumbai and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. Vishal Anand, Advocate for petitioner.
Mr. R. S. Nayak, A.P.P. for respondents-State.

CORAM : A.B. CHAUDHARI & P.N. DESHMUKH,JJ.
DATE : JULY 22, 2015.

By the present petition, the petitioner,
wife of the deceased, has prayed as under:

*“A. Direct the respondent No.2,3
and 4 to investigate the case of the road
accident of Shri Anandrao Shivcharan
Dhargawe, which took place on 15th March,
2014 and arrest the accused involved in the
accident case and bring him to justice.”*

Pursuant to the issuance of notices in this
petition, affidavits have been filed by the
respondents. On 25.03.2015, this court passed the
following order:

“Heard.

*Shri Vishal Anand, learned
counsel for the petitioner, with reference to
the reply filed by the prosecution, submits
that though the FIR mentions name of*

Ramesh Ramteke and Shamrao Mangal Ramteke as the persons who had seen the car leaving the spot, there is no attempt by the police to record their statements and find out the truth. Even, so far as information about the car from Toll-Post is concerned, the same is not taken with reference to the statements of Ramesh Ramteke and Shamrao Mangal Ramteke.

We expect the prosecution to probe further and make a fresh report.”

Mr. Vishal Anand, learned counsel for the petitioner submits that there is no compliance of this order in letter and spirit and by merely making show of recording statements of Ramesh and Shamrao nothing further is done. He further submitted that the information from the Toll Post has also not been properly and correctly obtained and on the contrary, it is stated that no information about the vehicle bearing No. MH-31/3102 was available.

Per contra, Mr. Nayak, learned A.P.P. for the respondents-State submitted that the statements of Ramesh and Shamrao were recorded a year before the order was made by this Court and as per those statements, the number of the vehicle and the vehicle was not identified by the first informant Prashant. We quote paragraph 4 from the reply filed by the

State to the said effect. The grievance made by learned counsel for the petitioner is that there is no further probe in relation to these two witnesses namely; Ramesh and Shamrao and, therefore, the compliance of the order of this Court is not made.

“4. The Investigating Agency thereafter traced out one car and proceeded further with the investigation. It is revealed during investigation that, the said car is belonging to one G. V. Subraramaniyam from Nagpur. The Investigating Agency recorded the statement of G.V. Subrramaniyam, it is revealed that the car belongs to the said G. V. Subrramaniyam is with the brother in law namely N. Balsubrramaniyam at Hyderabad and he further stated that from 2012 the car is with N. Balsubrramaniyam at Hyderabad.

The Investigating Agency issued initiation letter to N. Balsubrramaniyam to produce the car, accordingly, he has produced the car before the Investigating Agency after recording the car for investigation, the Investigating Agency prepared Panchanama and took a Photograph before the Panchas. The

Investigating Agency thereafter called the complainant for confirmation of the vehicle. The Investigating Agency recorded the supplementary statements of the complainant wherein he has stated that he is not sure about the care involved in the accident is a same care which is produced before the Investigating Agency. Thereafter, the Investigating Agency handed over the vehicle to the owner of the vehicle.”

We have considered, the submissions made by learned counsel for the parties and we find that the case of accidental death is being sought to be probed further. Still, the investigating machinery has made all efforts to find out the vehicle involved in the accident. But then we do not want to plug further remedy for the complainant i.e. the petitioner herein though respondent-State has decided to file “A” Final Report, which is pending approval of the higher officer. We, therefore, do not want to make any comments on further possible probe since we think that at this stage, the petitioner-complainant should be relegated to the statutory remedy available under the law.

In that view of the matter, we make the following order.

ORDER

(i) Criminal Writ Petition No.87/2015 is disposed of reserving liberty in favour of the petitioner to file protest petition before the Magistrate in case "A" Summary is filed.

(ii) The learned Magistrate shall not accept the "A" Summary without issuing notices to the petitioner-complainant and upon hearing her.

JUDGE**JUDGE**