

CRIMINAL APPLICATION NO. 4755 OF 2016

VERSUS

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DATED : 17th October, 2016

PER COURT :-

2. This application questions the order, dated 18.6.2015, passed by the Judicial Magistrate, First Class, Majalgaon, District Beed, below Exh.1, in Miscellaneous Criminal Application No. 430 of 2015 and the order, dated 18.6.2016, passed by the learned Additional Sessions Judge,

Majalgaon, District Beed in Criminal Revision Application No. 36 of 2015, whereby the learned Magistrate has refused to take cognizance of the complaint case preferred by the applicant for offence punishable under Sections 302, 323, 504, 506 r/w 34 of the Indian Penal Code in the matter of death of her son, who died due to drowning.

3. It is the case of the applicant that though the incident in question took place on 2.8.2014, still the two eye witnesses reported the same to her on 16.8.2014 and as the police have not taken cognizance, she has initiated complaint case on 17.8.2016.

4. In support of the claim put forth in the complaint, the two eye witnesses, namely, Sayyad Rahim Sayyad Habib and Sayyad Mujahed Sayyad Chandpasha were examined.

5. Perusal of both the orders, the contents of the complaint case and the evidence of the

alleged two witnesses, referred supra, hardly speak of any motive against the proposed accused persons.

6. Admittedly, deceased Malik has died of drowning, however, the applicant has failed to demonstrate from the postmortem report as regards external injuries suffered by deceased Malik, as it is alleged that the accused persons are instrumental in drawing the postmortem.

7. In an eventuality that Malik was knowing swimming, definitely he would have resisted the act of proposed accused of drowning him, resulting into the sufferance of injury, as observed herein above.

8. Apart from above, it is to be noted that the learned Magistrate and the learned Sessions Judge, have passed the orders, in detail, by observing that no case for taking cognizance of the complaint in question is made out.

9. In my opinion, after hearing learned counsel Shri Nagargoje at length, no ground is made out for interference in both the orders passed by the Courts below.

10. Accordingly, Criminal Application stands dismissed.

(N.W.SAMBRE, J.)

dbm/crap4755.16