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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3441 OF 2015
WITH
CRIMINAL APPLICATION NO. 492 OF 2015
AND
CRIMINAL APPLICATION NO. 281 OF 2016

Mahendra Alias Mahesh Bhikubhai Arya .. Petitioner

Vs.

The State of Maharashtra .. Respondent

Mr. Sanjay Bhatia i/by Legal Chartered for petitioner.
Mr. J. P. Yagnik, APP for State.

CORAM: NARESH H. PATIL &
PRAKASH D. NAIK, JJ.

AUGUST 29, 2016.

P.C.

1. Heard. Petitioner, father of deceased - Hitesh, seeks further investigation in FIR No. 165 of 2015 registered with Kasarwadavli Police Station, Thane. A charge-sheet came to be filed on 5/2/2016 for an offence punishable under Section 306 of the Indian Penal Code against wife of the deceased, who is daughter-in-law of the petitioner.
2. During the course of hearing, learned counsel appearing for

the petitioner referred to a representation made by the petitioner (Exhibit “K” to the petition). Learned counsel submitted that the investigation has not been conducted fairly and transparently. The petitioner has reason to say that his son was murdered by his wife. It is also submitted that wife of deceased had illicit relations with others, which must be one of the reasons for commission of the crime. The call details, memory chip details of which report is still awaited by the police, ought to have been looked into before filing of the charge-sheet. Learned Counsel submitted that in the postmortem report 100 cc black fluid was noticed by the doctor in the stomach of deceased. The Investigating Agency did not further analyzed as to what sort of substance was found in the body of the deceased. Dying declaration was not recorded, though the deceased was alive for considerable time, according to the learned counsel. It is submitted that the spot of incident is shown to be bath-room of the house. The incident occurred when the wife was present in the house. Learned counsel raised various issues on which according to the petitioner no investigation was conducted.

3. Learned APP submits that the police investigated the crime properly, recorded the statements of witnesses, neighbours, obtained

postmortem report and the memory chip of the mobile phone of the accused has been sent for expert analysis, the report of which is awaiting. The deceased was habituated of drinking liquor. No sooner the accused heard noise, she rushed to the bath-room and she saw deceased burning. Accused, wife of the deceased, tried to extinguish the fire, neighbours too rushed to the spot.

4. We have perused the record. In the facts, we observe that petitioner shall be provided with an opportunity to submit a comprehensive representation, address to the Commissioner of Police, Thane, raising specific grievances in support of the petitioner's case that deceased must have been done to death by his wife.

5. In the facts, petitioner is at liberty to file comprehensive representation, address to the Commissioner of Police, Thane, raising issues on which the petitioner desires further investigation in accordance with Section 173(8) of Cr. P.C. The said representation shall be submitted by the petitioner within two weeks. In case, such a representation is received, we direct the Commissioner of Police, Thane to call for a detailed report from the Sr. P.I. attached to the concerned police station, verify the record and take appropriate decision regarding the request made by the

petitioner to carry out further investigation under Section 173 (8) of Cr. P. C. In case, the Commissioner of Police is of the view that further investigation is necessary, then the investigation shall be carried out by the Sr. P. I. attached to the concerned police station under the supervision of Commissioner of Police, Thane. Decision on the representation, to be submitted by the petitioner to the Commissioner of Police, Thane, be communicated to the petitioner.

6. All issues on merits are kept open. Petition is disposed of accordingly.

7. It is clarified that we have not expressed any opinion on the merits of the allegations made by the petitioner, investigation carried out by the police.

8. Criminal Application Nos.492 of 2015 and 281 of 2016 do not survive and disposed as such.

(PRAKASH D. NAIK, J.)

(NARESH H. PATIL,J.)