

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

CRIMINAL WRIT PETITION NO. 632 OF 2016

Madan Dharma Rathod
Age:40 Years, Occ.: Labour
R/o Bhamratta, Tq. Pansemal,
Dist.Badwani (Madhya Pradesh)

.. PETITIONER

VERSUS

- 1] The State of Maharashtra
(Copy to be served on A.P.P.
High Court of Judicature of
Bombay, Bench at Aurangabad)
- 2] Dinesh Rohidas Chavan,
age major, Occu.Agriculture.
- 3] Rohidas Jaysingh Chavan,
Age major, Occu.Agriculturist.
- 4] Narmadabai Rohidas Chavan,
age major, Occu.Household.
- 5] Pintya Rohidas Chavan,
age major, Occu.Agriculturist.
- 6] Kavita Pintya Chavan,
age major, Occu.Household.
- 7] Dilip Rohidas Chavan,
age major, Occu.Agriculturist.
- 8] Sunabai Dilip Chavan,
age major, Occu.Household.

Respondent Nos.2 to 8 R/o Paapner
Taluka & Dist.Nandurbar.

9] Superintend of Police,
Nandurbar, District Nandurbar

10] Police Inspector, Upnagar Police
Station, Nandurbar, Tq. & Dist.
Nandurbar.

.. RESPONDENTS

Mr.P.S.Paranjape, Advocate for petitioner.
Mr.S.P.Deshmukh, APP for Respondent/State.
Mr.J.R.Shah,Adv. for respondents 2 to 8.

**CORAM : S.S.SHINDE &
MANGESH S. PATIL, JJ.**

**RESERVED ON : 6/11/ 2017.
PRONOUNCED ON :14/11/2017.**

JUDGMENT (PER MANGESH S. PATIL,J.) :

Rule. Rule is made returnable forthwith. Heard finally with the consent of the parties.

2] In this Writ Petition filed under Article 226 of the Constitution of India read with Section 482 of Cr.P.C., the petitioner is seeking investigation into the cause of death of his married daughter with following prayers :

“b] By Writ of Mandamus or any other appropriate writ as this Hon'ble Court deems fit and proper, the respondent no.9 may kindly be directed to register an offence against respondent no.2 to 8 and 10 by converting accidental death into homicidal death;

c] In view of the fact that the Police Inspector himself had committed an act of

abatement, the Superintendent of Police or Sub-Divisional Police Officer may be directed to investigate the crime; “

3] According to the petitioner, he is originally resident of Madhya Pradesh and has been working as labourer on construction sites in Eklahare, Dist.Nashik. His daughters Savita and Jyoti were married at the same time on 20/5/2015 in the same ceremony. Jyoti was married to the respondent no.2 as per the customs and usual traditions. Soon after the marriage, respondent no.2 started harassing Jyoti by raising demand for motor cycle. He and the other in-laws respondents 3 to 8 started ill treating her to pressurise her to meet the demand. Sensing that there was some problem with Jyoti in cohabiting with the respondents 2 to 8, during the Diwali festival in the month of November 2015, he sent his son Savan to stay with Jyoti at her matrimonial home.

4] The petitioner has then averred that on 3/12/2015, when he was at Eklahare, Dist.Nashik, he received phone call from his brother Sukhlal, informing that Jyoti was serious. The petitioner with his wife immediately left for the in-law's place at Paapnerpada, Dist.Nandurbar and reached there on the next day i.e. 4/12/2015. But Jyoti was already dead in hospital at Nandurbar. They noticed that their son Savan was also frightened and was unable to speak anything. While the petitioner and his family was under shock, the respondents 2 and 3 took him to the police station, where he was made to sign a paper but the contents were not read over to him. The respondents 2 and 3 paid him Rs.50,000/- in the police station

itself stating that they were returning the dowry received at the time of marriage.

5] According to the petitioner, police and the respondents 2 to 8 pretended that Jyoti had mistakenly consumed insecticide/Rodent instead of cough syrup. After the last rituals, Savan gathered courage and informed the petitioner what had actually happened. He informed that Jyoti's in-laws were always demanding money from her for purchasing a motor cycle and when she expressed her inability to meet the demand, her father-in-law used to manhandle her. He also told that on 3/12/2015, she was administered something and was taken to the hospital. Thus, according to the petitioner, the police machinery is hand in gloves with the respondents 2 to 3 and have been pushing the incident under carpet. Hence this Petition.

6] We have heard learned advocate for the petitioner. He has submitted, in consonance with the averments in the Petition, that it is highly unbelievable and improbable that the deceased could have consumed insecticide under some mistake instead of cough syrup. This circumstance itself is sufficient to doubt the investigation being carried out by police. Learned advocate also submitted that in the peculiar facts and circumstances, no adverse inference can be drawn against the petitioner for delay in filing the complaint making grievance about death of Jyoti.

7] The learned APP appearing for respondent State submitted that since the entire inquiry conducted by the

subordinate police officer has been examined by the police officer of the highest rank in the district, who has forwarded his report supporting the result of the inquiry. No fault can be found in it and no directions in the nature of fishing inquiry need to be given.

8] By order dated 9/12/2016, this Court had directed the Station Officer of Upnagar police station, Nandurbar who was incharge of investigation to record the statement of petitioner and his son Savan. Accordingly the police papers have been submitted alongwith the report dated 12/10/2016 by the Superintendent of Police, Nandurbar. In the report, it has been submitted inter alia that during the course of inquiry into the Accidental Death, which was registered initially, it has been transpired that final cause of death, after chemical analysis of the viscera has been turned out to be "Cardio Respiratory arrest due to effect of Organophosphorus that is Monocrotophos (Nyvacron) poisoning". It has been mentioned that when first Accidental Death case was registered, the petitioner had not made any grievance. On the contrary he had stated that he was not suspecting any foul play. There were no ante-mortem injuries found on the dead body during the post mortem examination. After the last rites were performed, when the Sub Divisional Police Officer, Nandurbar inquired with the petitioner and his wife as well as the paternal uncle of the deceased, they all had stated that they had no grievance. Witnesses from the neighbourhood of Jyoti's in-law's place also did not state anything about any marital discard or any harassment meted out to her. Lastly, it has also been noted that the grievance was

for the first time made after 15 days of the death.

9] After considering all these grounds mentioned by Superintendent of Police, Nandurbar and the papers, we do not apparently see any justifiable cause or reason to doubt inquiry being conducted by the police.

10] Besides, the son of the petitioner Savan was staying with deceased Jyoti in the house of respondents 2 to 8 for few days and was also present there on the date of the actual incident. If at all there was any foul play to his knowledge he would have promptly informed about it to his parents, may be a day or two later after the death. It is difficult to digest that Savan did not speak out the actual incident as he was frightened. This in our view, is an additional circumstance which goes to the root of the matter. It would be sheer abuse of process of law to still direct a fishing inquiry to be made.

11] Under these circumstances, we find no sufficient and justifiable reason to disbelieve the conclusion drawn by the police which is duly examined by the Superintendent of Police, Nandurbar. The Petition therefore fails and is dismissed. Rule is discharged.

(MANGESH S. PATIL,J.)

(S.S.SHINDE ,J.)