

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

CRIMINAL APPLICATION NO. 4163 OF 2017

Ganesh s/o Arvindrao More,
Age: 57 years, Occ.: Service as
Sub-Divisional Police Officer, Dound,
Pune Rural, Tq. and Dist. Pune.

... **Applicant**

Versus

1] The State of Maharashtra
Through Secretary Home Department,
Mantralaya, Mumbai.

2] The Additional General of Police,
C.I.D. Pune.

... **Respondents**

Mr. Anil M. Gaikwad, Advocate for the Applicant.
Mrs. M.M. Nerlikar, APP for respondent Nos. 1 and 2.

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

**RESERVED ON : 06.10.2017
PRONOUNCED ON : 13.10.2017**

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JUDGMENT: (*Per Mangesh S. Patil, J.*)

. Rule. Rule is made returnable forthwith. By consent of
parties heard finally at admission stage.

2. This is an application under Section 482 of the Code of Criminal Procedure for quashing of criminal proceeding bearing Crime No.I-14/2010 registered with Karjat Police Station on 24.01.2010 as well as further proceedings therein to the extent of the applicant.

3. The checkered and rather murkier facts leading to the present application may be summarized as under:

One Crime no. 99/2009 was registered with Baramati Police Station for an offence punishable under Section 454, 457 and 380 of the Indian Penal Code. The investigation was being carried out by Assistant Police Inspector Mr. S.G. Bhosale. The petitioner was in-charge of the Baramati Police Station as Police Inspector at the relevant time. One Janardhan Kale was a suspect and with the permission from the petitioner and the oral instructions of the Superintendent of Police, some police personnel took Janardhan to Karjat, District Ahmednagar, apparently for recovery of stolen property. Unfortunately, when the police party along with Janardhan took a halt near a Dhaba, Janardhan tried to cross the road hurriedly by gesturing that he was going for answering nature's call. When one of the police rushed after him all of a sudden Janardhan was knocked down by a truck and sustained grievous injuries. The police

party took him to Baramati for treatment but unfortunately he succumbed to the injuries.

4. The wife of the deceased Janardhan filed Writ Petition No.1494 of 2011 at the Principal Seat of this High Court and the Division Bench *inter alia* directed the State Government to pay compensation and also directed the Director General of Police to nominate an officer of in the rank of Additional Director of General of Police to look into all the aspects of the case surrounding death of Janardhan in suspicious circumstances, to ascertain if it was an accidental or homicidal. It was also directed that Departmental Proceedings initiated against all the police personnels including the petitioner may go on.

5. Accordingly, the departmental proceedings were conducted and apparently the petitioner was exonerated. However, the Investigating Officer moved an application in Crime No. I-14/2010 on 20.07.2016 and roped in the petitioner for the offence punishable under Section 348 r/w 34 of the Indian Penal Code for wrongful confinement of Janardhan. The petitioner, therefore, is seeking to quash and set aside the criminal proceeding.

6. We have carefully gone through police papers and the entire record. At the cost of repetition, we must observe that indeed the facts described herein-above deserved the adjective murkier. Without the deceased being taken into custody formally he was carried to places even outside the jurisdiction of Baramati Police Station. We are unable to digest the theory of alleged road accident in which the deceased has died. It is also surprising that, instead of fetching him some urgent medical treatment at nearby places the police party has carried the deceased in the injured condition to Baramati which is not less than 100 kms from the spot of the alleged accident. We do not intend to go into all these details in as much as the department has already initiated departmental proceedings against all the concerned police personnels including the present petitioner and it will take its own course. We are referring to these circumstances to point out as to how *prima facie* there is material to infer that the deceased was being detained with the express or tacit consent of the petitioner who was In-charge of the Baramati Police Station at the material time. Even the Competent Authority has granted sanction for his prosecution for wrongful detention and we are satisfied that there is absolutely no ground much less as laid down in the case of **State of Haryana V. Bhajanlal; AIR 1992**

Supreme Court 604 to quash the criminal proceeding.

7. In view of such state of affairs, by no stretch of imagination can it be said that the petitioner is being prosecuted either *mala fide* or without any basis. Therefore the application is liable to be rejected. The application is rejected. Rule is discharged.

8. We make it clear that the observations made herein before are *prima facie* in nature and confined to the adjudication of this Criminal Application. This order will not preclude the Applicant from availing of an appropriate remedy as available in law in the event of filing charge-sheet by the Investigating Officer.

[MANGESH S. PATIL, J.]

[S. S. SHINDE, J.]