

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL WRIT PETITION NO. 2085 OF 2016

Sahebrao s/o Daulat Sathe

....Petitioner

Vs.

The State of Maharashtra and Ors

... Respondents

Mr. Anilkumar K. Patil Advocate for Petitioner

Ms. Anamika Malhotra APP for the State.

CORAM: SMT.SADHANA S.JADHAV, J.

DATED : 3rd APRIL, 2017.

P.C.

1) Heard.

2) Rule. Rule made returnable forthwith with the consent of the parties.

3) The learned counsel for the petitioner has argued at length. Prayer clause (b) of the petition reads as follows:

“By issuing appropriate writ, order or directions, respondent no. 1 to 3 be directed to add section 302 and 304 (B) of the Indian Penal Code in crime no. 193/2015 and to further investigate the said offence by appointing new Investigating Officer”.

4) Under Article 227 of the Constitution of India, the prayer which is in the nature of directions cannot be issued by this Court to the Investigating Officer to simplicitor add section 302 and 304 (B) of the Indian Penal Code. For adding sections 302 and 304 (B) of the Indian Penal Code, further investigation would be necessary.

5) Perused post-mortem notes. Upon bare perusal, it appears that although the cause of death is shown as

'Asphyxia due to hanging'.

Coloumn no. 17 indicates:

'thyroid cartridge intact, hyoid bone intact'.

6) It would be incumbent upon the Investigating Officer to take further opinion from the doctor. In all these circumstances, petition stands disposed of with liberty to the petitioner to file appropriate proceedings before the Sessions Court. Petitioner is also at liberty to file an application under section 301 of Code of Criminal Procedure, 1973, if so advised. Petitioner will

also be at liberty to file an application through the prosecution seeking further investigation under section 173 (8) of Code of Criminal Procedure, 1973.

7) Rule is discharged.

(SMT. SADHANA S. JADHAV, J.)