

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.3349 OF 2013

Karbhari Yeshwant Khaire : **Petitioner.**
Versus
The State of Maharashtra and ors. : **Respondents.**

Mr. R K Singh for the Petitioner.
Mr. S V Walve for the Respondent Nos.4 to 7.
Mr. J P Yagnik APP for the Respondent/State.

**CORAM : R. M. SAVANT &
SANDEEP K SHINDE JJ.**
DATE : 21st AUGUST, 2016

PC.

1 The writ jurisdiction of this Court is invoked for seeking a direction to the Crime Branch or the CID or the Director of Prosecution or any other fit investigating agency to re-open the ADR No.31/2013 dated 21/05/2013 filed by Atgaon Police Station pertaining to the death of Smt. Kalpana Ganesh Nikam. A further direction sought is that an FIR be registered against the Respondent Nos.4 to 7.

2 The aforesaid reliefs are sought in respect of the death of the said Kalpana Nikam who was found hanging by cloth from the ceiling fan in a room. An Accidental Death Report Inquiry came to be held in respect of the said death on 21/05/2013. After holding the said inquiry a report was submitted to the learned Magistrate along with the relevant

papers i.e. the station diaries, postmortem report and the inquest panchanama. In so far as the postmortem report is concerned, the cause of death is mentioned as "Asphyxia". The Death Certificate issued by the Nashik Municipal Corporation, Nashik also mentions the cause of death as "Asphyxia due to hanging". A perusal of the case diaries maintained by the police which were the part of the report submitted to the learned Magistrate, the same revealed that the body of the deceased was handed over to the father of the deceased. The case diary of 08/11/2013 also discloses that when a question was put to the parents of the deceased as to whether they have any grievance in respect of the death of the deceased, they made a statement before the Assistant Commissioner of Police of the concerned Division that they have no such grievance. However, when they were told to give the same in writing, they told that they would consult their lawyer and give the same. However, no such written reply or representation was made by the Petitioner since 08/11/2013. The station diary therefore discloses that the body of the deceased was handed over to the father of the deceased which was accepted without any grievance as also parents of the deceased had no grievance of the death of deceased.

3 The learned Magistrate as indicated above deemed it appropriate to accept the ADR and accordingly closed the matter. The

relief sought in the above Petition is on the basis of the fact that the distance between the fan and the flooring in the room in question is only 6 ft and that since the cloth was of 3 ft. it is sought to be contended that the death could not have taken place by hanging. It is the sole circumstance on the basis of which the Petitioner seeks the FIR to be registered against the husband of the deceased and his family members. The facts do not disclose that prior to the deceased hanging herself there was any complaint made by the deceased of any ill-treatment or that the parents of the deceased had made any complaint to the police in respect of the ill-treatment.

4 In our view, therefore, no relief can be granted to the Petitioner in the facts as afore-stated. The above Criminal Writ Petition is accordingly dismissed.

[SANDEEP K SHINDE, J]

[R.M.SAVANT, J]