

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1047 OF 2016

Dr. Naresh Vasantryao Gavande
Age: 38 yrs, Occu: Medical Practitioner,
R/o. Gadgebaba Nagar, Bhadgaon Road,
Pachora, Dist. Jalgaon.

...Applicant.

Versus

1. Meerabai Datta Patil
Age: 40 yrs, Occu: Household,
R/o Warkhedi, Tq. Pachora,
Dist Jalgaon.

2. The State of Maharashtra

...Respondents

Mr. S.S. Jadhav, Advocate for Applicant.

Mr. P.S. Shendurnikar, Advocate for Respondent No.1.

Mrs. P.V. Diggikar, APP for Respondent 2/State.

**CORAM :T.V. NALAWADE AND
SMT. VIBHA KANKANWADI, JJ.
DATED : 29/10/2018.**

JUDGMENT : [PER T.V. NALAWADE, J.]

- 1) Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

- 2) The proceeding is filed for relief of quashing of chargesheet filed in C.R. No. 191/2015 which was registered in Pachora Police Station for the offences punishable under section 304 of Indian Penal Code. The crime is registered on the basis of report

given by respondent Meerabai Patil. Deceased Dattu Patil was her husband. He was admitted in the hospital of applicant on 9.8.2018 as he was suffering from cold and fever. He was discharged from hospital on 13.8.2014. It is the contention of complainant that on the night of discharge, her husband was not feeling well and so, he was again taken to hospital of applicant and he was admitted in the hospital. It is contended that he was admitted at mid night hours and she had asked the applicant as to whether it was necessary to shift her husband to other hospital and upon that, applicant had informed that there was no such necessity. It is contended that her husband died in the hospital of applicant on that night at 4.30 a.m. Post mortem was conducted on the dead body. It is her contention that her husband was not suffering from any serious ailment and he died only due to the negligence of applicant, who is the owner of the hospital and who was responsible for giving the treatment. The report was given to police station on 4.11.2015.

3) The police papers contain the record of treatment. It shows that the treatment which was given is recorded in it and there is one entry showing that information was given to relatives that it was advisable to shift the patient to higher center. This information was given at 4.10 a.m. Up to 4.00 a.m. the condition of the patient was ok as per the noting of the examination made in the case paper.

But after 4.10 a.m. the condition deteriorated.

4) As per the directions given by this Court on 24.6.2016 the Medical Board did re-examination of the matter and again gave opinion that the death took place due to heart attack. The initial opinion was similar. The Board has given opinion that there was no negligence on the part of doctor who was giving treatment. In view of the aforesaid circumstances, this Court holds that relief needs to be granted to the applicant. In the result, the application is allowed. Relief is granted in terms of prayer clause 'B'. Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T.V. NALAWADE, J.]

ssc/