

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

CRIMINAL WRIT PETITION NO. 89 OF 2019

Hussain s/o. Rasulsab Shaikh,
Aged 50 years, Occu. Labour,
R/o. Ashok Nagar, Ahmedpur,
Taluka Ahmedpur, District Latur. .. Petitioner

Versus

- 1 The State of Maharashtra
Through its Principle Secretary,
Home Department, Mantralaya,
Mumbai – 400 032.
- 2 The Superintendent of Police,
Superintendent of Police Office,
Latur, District Latur.
- 3 Smt. S. U. Sable,
Lady Police Sub-Inspector,
Police Station Ahmedpur,
Presently working at Police Station,
Gandhi Chowk, Latur, District Latur. .. Respondents

...
Ms. Poonam V. Bodke Patil, Advocate for Petitioner.
Mr. R. D. Sanap, APP for Respondents No.1 to 3.
...

**CORAM : T.V. NALAWADE &
K. K. SONAWANE, JJ.**

DATED : 29th AUGUST, 2019.

JUDGMENT (PER : T. V. NALAWADE, J.) :-

1. Rule. Rule made returnable forthwith. Heard finally, with consent of learned counsel for the parties.
2. The petition is filed by the petitioner seeking directions to respondents No. 1 and 2 to initiate disciplinary action against

respondent No. 3 Smt. S. U. Sable, Lady Police Sub-Inspector for act of her negligence and for not collecting the evidence available intentionally. The incident was in respect of death of daughter of present petitioner. The submission made by learned APP shows that after considering the grievance of the petitioner, which she expressed in the complaint dated 27-11-2018, addressed to the Superintendent of Police, Latur, action was taken against respondent No. 3 and her two annual increments are stopped for a period of two years. This penalty would not affect further increments, which would become due.

3. Learned counsel for the petitioner submitted that aforesaid penalty is not sufficient as valuable evidence like statement of deceased, which could have been used as dying declaration is lost due to the negligence of respondent No. 3. There are allegations against main accused that when marriage of daughter of the petitioner was settled, the accused created her photo match with his photo and the accused threatened her to upload the fake photo on what's up and face book, due to that her marriage did not take place and they continued to harass the deceased. Due to their harassment, deceased ultimately consumed poison on 19-05-2018. A crime was registered on 25-05-2018, on the basis of aforesaid complaint given by the father of deceased. She was under treatment as indoor patient in the hospital till 31-05-2018. She was discharged on 31-05-2018. But, she died due to heart failure, which was post poisoning effect on 12-06-2018. It is the contention that respondent No. 3 Investigating Officer avoided to record the statement of daughter of the petitioner and that is how she has helped the accused person and she has failed to make investigation

properly.

4. The submissions made show that the Superior Officers of respondent No. 3 are not disputing that there was negligence, so aforesaid penalty is given. Learned counsel for the petitioner drew attention of this Court to Section 145 of The Maharashtra Police Act, [Bombay Act No. XXII Of 1951], which reads as under:

Penalty for Making False Statement, Etc., and for Misconduct of Police Officers -

(1) Any person who makes a false statement or uses a false document for the purpose of obtaining employment or release from employment as a Police officer, or

(2) Any Police officer who -

(a) is guilty of cowardice, or

(b) resigns his office or withdraws himself from duties thereof in contravention of section 29, or

(c) is guilty of any wilful-breach or neglect of any provision of law or of any rule or order which as such Police officer, it is his duty to observe or obey, or

(d) is guilty of any violation of duty for which no punishment is expressly provided by any other law in force, shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Consequence of failure to return to duty after leave

(3) A Police Officer who being absent on leave fails, without reasonable cause, to report himself for duty on the expiration of such leave shall, for the purpose of clause (b) of sub-section (2), be deemed to withdraw himself from the duties of his office within the meaning of section 29.

5. Learned counsel for the petitioner submits that in such a cases, criminal action is must, otherwise things will not improve. She submits that such things are done with ulterior motive. Such possibility cannot be ruled out and in such cases criminal action which is possible needs to be taken. In the result, this Court holds that directions of criminal action against respondent No. 3 as provided by law, more particularly, under the provisions of Maharashtra Police Act, are required to be issued to respondent No. 2 authority. Accordingly, the Criminal Writ Petition stands allowed in terms of prayer clause 'B'. Rule is made absolute in those terms. No costs.

Sd./-

[K. K. SONAWANE]
JUDGE

Sd./-

[T.V. NALAWADE]
JUDGE

MTK