

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1572 OF 2019

Dayanand s/o. Sanjay Deshmukh .. Petitioner
Age. 42 years, Occ. Agril.,
R/o. Dighol Deshmukh,
Tq. Renapur, Dist. Latur.

Versus

01. The State of Maharashtra .. Respondents
Through its Principal Secretary
Home Department,
Mantralaya, Mumbai – 32.
02. The Superintendent of Police,
Latur, Tq. & Dist. Latur.
03. The Police Inspector,
Police Station, Renapur,
Tq. Renapur, Dist. Latur.

Mr. Mahesh P. Kale, Advocate for the petitioner.
Mrs.D.S. Jape, APP for respondent/State.

CORAM : T.V.NALAWADE &
S.M.GAVHANE, JJ.

DATED : 11.12.2019

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

1. Rule. Rule made returnable forthwith. Heard finally with the consent of learned counsel appearing for the parties.

2. In view of serious allegations made against present Investigating Officer Mr.Gorakh Vishwanath Dive, by order dated 02.12.2019, this Court had directed the Investigating Officer to remain present before this Court. He is present before this Court today. In his presence, both the sides were heard and some queries were also made.

3. This Court has carefully gone through the post-mortem report. The post-mortem report shows that in column No.17, as many as, five injuries are mentioned, which include one stab injury and one head injury. In column No.19, there is a mention of fracture injury at temporal bone of the skull and this injury apparently corresponds to injury No.4 mentioned in column No.17. The Doctor, who conducted the post-mortem examination, has given opinion that the death took place probably due to cardio respiratory arrest due to severe head injury with consumption of poisonous type liquid. The dead body was found in the field of the deceased. But it appears that

viscera was preserved and it was sent to the CA office for chemical analysis. The CA report is available in the record and it shows that no poison was detected in viscera.

4. The aforesaid circumstances are sufficient to make out, prima facie, case of unnatural death and probably homicidal death. At any stretch of imagination, it cannot be inferred on the basis of record that it is a suicide. In spite of that circumstance, the Investigating Officer is trying to use one chit, in which, there is some handwriting showing that the deceased had some pain in abdomen and due to that he had done something. However, there is no mention as to what he had done due to abdominal pain. There is mention that he wanted to see that nobody like his issue should be blamed for it. This circumstance itself is suspicious in nature as it does not show as to what was done by the deceased to himself, if he wanted to commit suicide. Learned APP submitted that this chit is sent to the handwriting

expert for comparison of handwriting. Due to all the circumstances, this Court has formed opinion that the investigation is not on proper line.

5. The petitioner has made serious allegations against the present Investigating Officer that the Investigating Officer is helping the accused, who is named as a suspect in the FIR. Today a photograph was produced in the Court which shows that in daily newspaper Lokmat, a photograph of one function was taken and in that photograph there is present Investigating Officer and also the accused and it was taken on 07.06.2019. The dead body was found on 04.06.2019. It appears that a complaint was also given to the District Superintendent of Police in which allegations are made against the present Investigating Officer. Due to aforesaid circumstances, this Court is feeling it necessary to pass some order like changing the Investigating Officer of the present matter. So, the following order is passed :-

O R D E R

1. The writ petition is allowed.
2. The District Superintendent of Police is to go through the record himself and change the Investigating Officer. He is expected to see that some senior police officer of the rank of Dy. Superintendent of Police is appointed to make the investigation. It is up to the District Superintendent of Police to take further steps like holding enquiry against the present Investigating Officer, if he finds that there is material against him to infer that there is dereliction of duty or some mischief is there on the part of present Investigating Officer.
3. Rule is made absolute in aforesaid terms.

[S.M.GAVHANE, J.]

[T.V.NALAWADE, J.]