

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

CRIMINAL WRIT PETITION NO.569 OF 2019

Khalid Mommoo Kalandan ..Petitioner
V/s.
The Senior Inspector of Police & Anr. .. Respondents

Mr.Shyam Rishi Pathak for the Petitioner.

Mrs.A.S. Pai, APP for the Respondent-State.

Mr.Sandeep D. Shevkhane for the Intervenor.

**CORAM : RANJIT MORE &
SMT.BHARATI H. DANGRE, JJ.**

DATE : 15th MARCH 2019

P.C.

1. Heard learned counsel for the petitioner, the learned APP and the learned counsel for the intervenor.

2. The petition is filed for following relief :-

“(b) This Hon'ble Court may kindly be pleased to invoke its writ in the nature of mandamus and any other appropriate writ as this Hon'ble Court may deem fit and proper and direct the Santacruz Police Station to handover the dead body of the deceased Basil Helen Rodricks to the present petitioner, in view of the powers of this Hon'ble Court under Article 226 of the

Constitution of India, or in the alternate;

(c) This Hon'ble Court may kindly be pleased to invoke its writ in the nature of mandamus and any other appropriate writ as this Hon'ble Court may deem fit and proper and direct the State of Maharashtra to conduct last rites of the deceased Basil Helen Rodricks, in view of the powers of this Hon'ble Court under Article 226 of the Constitution of India, or in the alternate;"

3. A lady by name Basil Helan Rodricks aged 85 years residing at Santacruz died a natural death on 24.01.2019. On her death, the body was forwarded for postmortem and it was reported that she died a natural death. Attempts were made to trace the relatives of the deceased and awaiting said information, the body was kept in the morgue.

The petition revolves around the performance of last rites of Basil Helen Rodricks. The petitioner who claims that he is the caretaker and he has been taking care of the deceased for last 8 to 9 years claims that the dead body be handed over to him for performance of last rites. In the meantime the intervenor, Sacred Heart Church, Santacruz also stake a claim that the body be handed over to her since the deceased was a Catholic Christian and,

therefore, they intend to perform the last rites as per Christian Religion. The relatives of the deceased have not yet been traced and it is informed by the learned APP that deceased is survived by a brother who is reportedly staying in United Kingdom and efforts are to be made to reach to him.

4. The learned APP as well as the intervenor disputed that the petitioner is a caretaker. The learned APP submits that last rites will be conducted by the Police. All the parties are in agreement that the last rites of the petitioner be conducted in accordance with Christian Religion. However, each of them independently claims that they should be allowed to do the same. The facts remains that the very relatives of the deceased Basil Helan are not present today. Dead body of the deceased cannot be kept in morgue for an indefinite period. In the circumstances we dispose of the petition by passing the following order:-

ORDER

(i) The petitioner along with members of the Sacred Heart Church, Santacruz is permitted to perform the last rites of the deceased Basil Helen Rodricks.

(ii) The senior Officer from the Santacruz Police Station shall supervise the conduct of the last rites of deceased Basil Helan Rodricks.

(iii) The last rites would be performed tomorrow i.e. 16.03.2019 as per the instructions sought by the learned APP.

5. So far as the flat in which the Basil Helan Rodricks was residing, it is reported that the same is sealed and the copy of the order is forwarded to the Collector. The apprehension of the learned APP that the petitioner on the basis of the permission to perform last rites may claim right in the flat. We make it clear that the petitioner is permitted to conduct last rites along with the church only on humanitarian ground and that he will not make him entitle to claim for any rights in the flat in which the Basil Helan Rodricks was residing.

(SMT.BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)