

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION (CWP) NO. 889 OF 2018

(Mr. Rajesh s/o Tillumal Bhavnani vs. State of Maharashtra thr. its Secretary, Department of Home & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri Rajnish Vyas, Advocate for the petitioner.
Shri S.A. Ashirgade, APP for the respondents.

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**CORAM : P.N. DESHMUKH &
PUSHPA V. GANEDIWALA, JJ.**

DATE OF RESERVED : AUGUST 01, 2019.

DATE OF PRONOUNCEMENT : AUGUST 06, 2019.

The petitioner, the brother of the deceased – Kavita, who is stated to have died in one room of hotel at Shegaon, filed this petition *inter alia* for the relief of initiating inquiry against the erring Police officers, who are responsible for missing of the important documents related to the case of murder of her sister.

We have heard Shri R. Vyas, learned counsel for the petitioner and Shri S.A. Ashirgade, learned APP for the respondents.

It is stated that during investigation, it was revealed that one Ankush Suresh Ban (Gosavi) had stayed with Kavita in Maharaja Residency Hotel at Shegaon. Kavita was found dead in the said hotel on

28.03.2010. During investigation, police seized register maintained by Maharaja Residency Hotel, Shegaon and one diary of Kavita. After investigation, charge sheet came to be filed before the Court of Additional Sessions, Khamgaon, District – Buldhana. During trial, it was revealed that original report of handwriting expert and other documentary evidence is missing from the custody of police. Hence, the petitioner – the brother of the deceased filed this petition.

The learned APP has filed affidavit-in-reply and additional reply on behalf of the respondents. From the perusal of the same, it is noted that the departmental inquiry has been initiated against the erring officials and they have been handed with the punishment by respondent No. 2 – Superintendent of Police, Khamgaon, District – Buldhana, as per rules and efforts are being made by the respondents to trace the missing property. The learned APP also informed about taking steps to lead secondary evidence.

We have considered the submissions on behalf of both the parties.

At the outset, the photocopies of the aforesaid documents are already in possession of the prosecution. If the original documents have been missed out and the prosecution is able to establish foundation to

lead secondary evidence before the trial Court as per law, the apprehension of the petitioner can very well be sorted out. We see this being the most appropriate solution to the negligence committed by the respondents.

In the circumstances, we dispose of this Criminal Writ Petition in the above terms.

JUDGE

JUDGE

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