

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

CRIMINAL WRIT PETITION NO.366 OF 2017

SMT SUNITA RAJABHAU AMBHORE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. R. B. Ade.
APP for Respondents: Mr. A. V. Deshmukh.
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CORAM : T. V. NALAWADE &
M. G. SEWLIKAR, JJ.

DATE : 20th October, 2020.

ORDER: (Per T. V. Nalawade, J.)

. The petition is filed for relief of direction to Respondents to register the crime on the basis of application given by the Petitioner dated 9th January, 2017.

2 Heard both the sides.

3 Deceased Rajabhau Ambhore was the husband of Petitioner Sunita. Rajabhau was working as a driver on the tractor of Vijay Ghuge against whom the Petitioner has expressed suspicion. About eight days prior to the date of incident in question, according to Sunita, Rajabhau had quarrel with Ghuge and due to that Rajabhau had not gone to work as driver to Ghuge. It is contended that as

Ghuge had come to the deceased and he had taken Rajabhau with him for 5 to 6 days, Rajabhau had resumed the work. It is contended that on 5th January, 2017 at about 05:00 am, Rajabhau was collected by Ghuge from his residential place and he was taken to work as driver. It is contended that on 5th January, 2017 at about 07:00 pm, Ghuge visited her house and informed that Rajabhau was lying at a place in drunken condition and it was necessary to shift him to hospital. It is contended that she and her son were taken to the spot and they noticed that Rajabhau was dead. Police were called and then the dead body was shifted to Jintur Hospital where the postmortem was conducted on the next day. Funeral was also completed. Sunita gave report on 9th January, 2017 against Vijay Ghuge that Vijay Ghuge had murdered Rajabhau.

4 The papers of AD inquiry contain the report given by Vijay Ghuge on 6th January, 2017. This report shows that on 5th January, 2017, Rajabhau was working for him and the tractor was taken to one Shafi Inamdar for repair. In the report, it was informed that from the workshop, he had returned on motorcycle and Rajabhau had come to village on the tractor. It is contended that at about 07:30 pm of that day, one Khushal Daund came to him and informed that his tractor had met with an accident near funeral place. Vijay Ghuge had gone to the spot and then he had noticed that tractor had given dash to one tree

and Rajabhau was lying on the road. He was dead. He gave report that Rajabhau had driven the tractor rashly and negligently and he had caused the accident and in the same accident he had died. On the basis of this report, crime was registered at CR No.6 of 2017, for the offences punishable under Sections 279 and 304-A of the Indian Penal Code. Inquiry into AD was made and investigation of the aforesaid crime was also made. The papers of investigation and inquiry were made available to this Court.

5 The postmortem report shows that injury like abrasions were found only on the front side of the body and major injury was on abdomen. The cause of death is given as Hypovolumic shock due to abdominal injury, due to splenic injury.

6 The papers contain statements of persons like Vaman Ambhore, father of the deceased dated 6th January, 2017. He had informed that Rajabhau had died in the accident and he had no suspicion against anybody. There are similar statements of the relatives of deceased. There is statement of one Ranjit Nikalje showing that there was accident of tractor and there was possibility that a wheel of tractor had caused the abdominal injury. There is statement of garage owner showing that the deceased was heavily drunk and this man had given Rs.50/- for liquor to the deceased.

There is statement of Khushal Daund, who had noticed the accident first. It is he, who had given information to the owner of tractor. The report of police inspector shows that he has formed opinion that Rajabhau died in aforesaid accident and after fall from tractor, a wheel of tractor must have run over his body.

7 The submissions made and record does not create any other probability. In view of these circumstances, it is not possible to give direction to register crime on the basis of allegations made by Sunita, ho has no personal knowledge about the incident. The statements show that at the relevant time, the employer of Rajabhau was not in his company. Due to all these circumstances, the petition stands dismissed.

[M. G. SEWLIKAR, J.]

[T. V. NALAWADE, J.]

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