

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 631 OF 2020

Kalyani w/o. Dnyaneshwar Shelke and Anr.**Petitioners.**

Versus

The State of Maharashtra and Ors.**Respondents.**

Mr. P.K. Ippar h/f. Mr. S.J. Salunke, Advocate for petitioners.

Mr. K.D. Mundhe, APP for respondents.

**CORAM : T.V. NALAWADE AND
SHRIKANT D. KULKARNI, JJ.**
DATED : 03/11/2020.

ORDER :

1. The petition is filed for relief of direction to register the crime against the persons like Ganesh Gitkhane, Satish Jaykar, Nana Vaidya and Sachin Mhaske, all residents of village Taka, District Jalna for the offence punishable under section 302 and 34 of Indian Penal Code for committing murder of Dnyaneshwar Shelke, husband of petitioner No. 1 and son of petitioner No. 2. Prayer is made to register the crime on the basis of complaints made to police by them on 16.6.2019 and 19.8.2019.

2. After issuing notice to police to make inquiry about cause of death and about action taken on the grievance expressed by the petitioners some information was supplied and after that many orders were made by this Court. These orders were made to find out

as to whether any piece of evidence can be made available against the aforesaid four persons. The material which is available is to effect that there was some conversation between deceased and Ganesh on phone on that day. The deceased was labour contractor and on that day, he made disbursement of the labour charges to his labours. On that basis also, some investigation was made, but police could not get any material. The main so called material was only against Ganesh of aforesaid nature. Ultimately, it was submitted by the learned APP that the Investigating Officer has formed opinion that there is virtually no evidence for taking action by presuming that it is a murder.

3. The death took place due to poisoning, but nobody had seen anybody in the company of deceased at the relevant time. The dead body of the deceased was found inside of the field. There was no injury on the dead body showing that something was administered to him forcibly. The investigation revealed that up to noon time the deceased was disbursing the labour charges to labours, but after that the deceased was not seen by anybody. The deceased had habit of consuming liquor. The dead body was noticed on the same day i.e. on 9.6.2019, but at about 9.00 p.m. Nobody had even seen the deceased proceeding towards the spot where the dead body was found. People went towards the field only because the motorcycle of the deceased was found parked by the side of that

field. The C.A. report shows the result of analysis as follows :-

“--- Results of detection of Acaricide AMITRAZ [TAKTIK]
in exhibit nos. (1) and (2) are positive.----

--- The level of AMITRAZ detected in exhibit nos.(1)
and (2) is of the same order as that found.---

in fatal poisoning cases involving AMITRAZ.---

The P.M. report shows that no injury at all was found on the dead body. In view of these circumstances, this Court holds that it is not desirable to give direction to police to register crime on the basis of suspicion expressed against the aforesaid persons by the widow and father of the deceased. If they have any clue and any material which may be available subsequently, they may approach Magistrate and file appropriate proceeding. So, the petition stands dismissed.

[SHRIKANT D. KULKARNI, J.]

[T.V. NALAWADE, J.]

SSC/