

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1004 OF 2017

Pandit Sakharam Sagare,
Age: 28 years, Occ. Labour,
R/o Dongargaon, Tq. Sillod,
District Aurangabad.

... **Petitioner**

Versus

1. The State of Maharashtra
Through Police Station Bhokardan
Tq. Bhokardan, Dist. Jalna.

2. Baburao Ganpatrao Navgire,
Age: 28 years, Occ. Labour,
R/o Talwada, Tq. Sillod,
District Aurangabad.

... **Respondents**

...
Advocate for Petitioners : Mr. Aniruddha S. Usmanpurkar
APP for Respondents/State : Mr. B.V. Virdhe
...

**CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.**
DATE : 15.12.2020

JUDGMENT : (Per: *M.G. Sewlikar, J.*)

Rule. Rule is made returnable forthwith. Learned A.P.P. waives service for the State. With the consent of both the sides the matter is heard finally at the stage of admission.

2. By this petition the petitioner has sought quashing of the FIR.

3. Facts in a nutshell can be stated as under:

4. The deceased Arvind Pundlik Navgire was the nephew of the informant. He was on his way to Godhri, Tq. Bhokardan, District Jalna. He was riding motorcycle No. MH-20-CK-3601 (Bajaj Discover). The deceased was going there to see his wife. At 8.30 pm the nephew of the informant by name Sandeep Madhukar Pagare telephonically informed the informant that the deceased Arvind Pundlik Navgire met with an accident. The accident was caused by an unknown vehicle. He was further informed that the deceased died on the spot. FIR was lodged against unknown vehicle on 06.01.2016 on the basis of which offence punishable under Section 279, 304-A of the IPC came to be registered.

5. Heard Shri Aniruddha S. Usmanpurkar learned counsel for the petitioner and Shri Virdhe learned APP for the State.

6. Shri Usmanpurkar submitted that the accident was caused by an unknown vehicle. The report was lodged on 06.01.2016. However, the police did not investigate the offence for three to four months. All of a sudden they

arrested the accused. There is no nexus between the accident and the vehicle of the applicant. The applicant has been falsely involved in this case.

7. Shri Virdhe learned APP for the State argued that there are statements of the eye witnesses which indicate that the petitioner was driving the Tractor and he dashed the motorcycle of the deceased and ran away from the spot.

8. On perusal of the police papers, it is seen that the statement of Janabai Pundlik Navgire, the mother of the deceased Arvind has been recorded. She has stated that she was told by Ishwar Sarode that the accident was caused by the petitioner. The Investigating Officer has recorded the statement of Ishwar Sarode. The said Ishwar Sarode has stated in his statement that the tractor driver dashed against the motorcycle and caused the accident. They both went to the spot of the accident. He and his friend Rama Baburao Dhude went there and saw the number of the tractor as MH-18-N-1799. This clearly indicates that the accident was caused by the petitioner only. Despite registration of the offence, the police did not make any investigation. Therefore, the mother of the deceased herself started making inquiry and Ishwar Sarode told her about the happening of the accident and he witnessing the accident. In this view of the matter, *prima*

facie there is evidence to show that the petitioner was responsible for the happening of the accident. Therefore, we are not inclined to grant any relief to the petitioner. The petition is, therefore, dismissed. Rule is discharged.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]