

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

CRIMINAL WRIT PETITION NO.21/2019

Sau. Sunanda W/o Dnyaneshwar Deshmukh,
aged 45 Yrs., Occ. Housewife, R/o House
No.445, Ramji Ambedkar Nagar, Athwa Mail,
Amravati Road, Nagpur.

..Petitioner.

..Vs..

1. The State of Maharashtra,
through its Secretary, Department of
Home, Mantralaya, Mumbai - 32.
2. The Police Commissioner, Nagpur.
3. The Police Station Incharge, Police
Station, Wadi, Nagpur.

..Respondents.

Shri M.P Kariya, Advocate for the petitioner.
Shri S.M. Ghodeswar, A.P.P for the respondents / State.

CORAM :- SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.
DATED :- 13.1.2021.

ORAL JUDGMENT *(Per Sunil B. Shukre, J.)*

1. Heard Shri M.P Kariya, learned Advocate for the petitioner and
Shri S.M. Ghodeswar, learned A.P.P for the respondents - State.
2. **Rule.** Rule made returnable forthwith. Heard finally by
consent.

3. The petitioner is an unfortunate mother of a young boy Shyam, aged about 17 years. When he died in October, 2018, he was residing at Nagpur along with his mother and elder brother while his father was away at Mumbai. In the evening of 12.10.2018, he left his house and went somewhere else. As he did not return home at night, the petitioner and her elder son got worried and started making search for deceased Shyam. On 14.10.2018 dead body of Shyam was found floating in the well at Mohade Layout, Dawlameti. Avadhutwadi Police Station was informed that some dead body was recovered from the well. It was identified by Vinayak Deshmukh, elder brother of deceased. Police after registering an accidental death case, conducted enquiry into the matter and because of advanced decomposition of the dead body, postmortem examination could not lead to formation of any final opinion regarding the death by the doctor who conducted the postmortem examination.

4. According to the petitioner, such suspicious death of Shyam was probably homicidal. She alleged that deceased had an affair with Janhvi Masram and that there was one Aman Thakare, with whom the deceased had quarreled earlier and because of which Aman Thakare had threatened the deceased on his life. She expressed suspicion on Krishna Pujari and Harish Bawankar, as these were the boys who

always used to accompany Shyam and who used to compel Shyam to drink liquor.

5. Police meanwhile obtained the final report in respect of the probable cause of death. According to this final report, the probable cause of death was a possibility of drowning death, as per the circumstances provided by the Investigating Officer. So, even in the final report the opinion was based upon circumstantial evidence provided to the concerned doctor by the Investigating Officer and not merely the facts noticed in the postmortem examination conducted on the dead body of the deceased.

6. Shri Kariya, learned counsel for the petitioner submits that police are not making proper investigation in the case and the petitioner suspects, now the Investigating Officer also is trying to shield the real culprits in the case. This has been refuted by the learned A.PP

7. The Investigating Officer filed two replies in this case. Reply dated 15.3.2019 indicates that immediately after the A.D. Report was filed, the Investigating Officer had recorded the statement of Vinayak Deshmukh, elder brother of deceased, on 14.10.2018. At that time,

Vinayak did not express any suspicion over anybody and on the contrary, he made statement in a manner as had shown to the Investigating Officer that deceased Shyam had some psychological problem, that he had an irritable and quarrelsome nature, that sometimes he used to behave in a weird manner as on one occasion, that he had left the house suddenly threatening the members of the family that he would never return home and then after some time, late in the night, the deceased had come back home. He has also stated that the deceased, sometimes used to break the house utensils.

8. With such background of the deceased, the Investigating Officer made a thorough enquiry into the allegations made by the petitioner. Statements of Sandhya Ramvilas Masram, Janhvi Kailas Masram, Aman Vijay Thakare, Durgesh Keshav Gajbhiye and Harish Tukaram Bawankar were recorded. The investigation Officer could not find any suspicious circumstances in their statements. The Investigating Officer also examined the call details record of the alleged suspects but even such examination has not led to any inference that any of the persons may have played any role in the circumstances which may have led to the death of Shyam.

9. The second reply dated 3.8.2019 speaks about the examination

of call details record by the police and Investigating Officer finding nothing suspicious so as to substantiate the allegations made by the petitioner. The Investigating Officer also learnt from the doctor when he approached second time after the results of the viscera had been declared and he then learnt about presence of 103 milligrams and 101 milligrams of ethyl alcohol per 100 grams respectively in the samples collected from stomach, loop of intestine, liver and spleen. This finding of ethyl alcohol in the stomach of the deceased supports the submission of the witnesses that the deceased had habit of drinking liquor and on the fateful day also the deceased had consumed liquor. The statements of other witnesses also corroborate the version of Vinayak Deshmukh, elder brother of deceased that deceased had quarrelsome manner and that sometimes he used to behave in a weird manner.

10. All these facts, revealed in the detailed investigation carried out by the Investigating Officer, would only suggest, at this stage, that there is no substance in the suspicion expressed by the petitioner against the persons named in her complaint. They would also show that the Investigating Officer has properly carried out the investigation. In the circumstances, we find that the prayer made in this petition for issuance of direction to the Investigating Officer to

conduct proper investigation and also to the Commissioner of Police, Nagpur to appoint a Special Investigating Officer in the present case cannot be granted by this Court. The petition stands dismissed.

JUDGE

JUDGE

Tambaskar.