

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

CRIMINAL WRIT PETITION NO. 164 OF 2020

Chandulal S/o Vishandas Goklani,
Aged about 68 years, Occu. - Business,
R/o. Ras Garba Road, Quetta Colony,
Lakadganj, Nagpur.

.... **PETITIONER**

// VERSUS //

- 1) State of Maharashtra,
through Secretary,
Home Affairs, Mantralaya,
Mumbai.
- 2) Police Station Officer,
Hudkeshwar Police Station,
Nagpur.
- 3) Police Inspector,
Local Crime Branch,
Unit No.4, Nagpur City,
Nagpur.
- 4) Commissioner of Police,
Nagpur City, Nagpur.

.... **RESPONDENT**

Shri R. D. Hajare, Advocate for the petitioner.

Shri N. R. Patil, Assistant Public Prosecutor for the respondents.

**CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.**

DATED : 01.03.2021.

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

1. Heard. **Rule.** Rule made returnable forthwith. Heard finally forthwith by consent.

2. When we passed the order in the first half today, till the order was dictated, Shri Hajare, learned counsel for the petitioner was absent and he appeared only when the dictation was almost over. Therefore, we noted his presence accordingly and granted his request for adjournment which was for two weeks, only till the second half for the reasons stated in the order. We also directed the prosecution to produce before us the case diary.

3. We have perused the case diary. On going through the case diary, we do not think any suspicious circumstance surfaced after the earlier petition namely Criminal Writ Petition No. 1141 of 2017 was dismissed by this Court on 28.02.2018.

4. It is worthwhile to note here that by this petition, the petitioner has renewed his prayer third time for directing the Investigating Agency to register First Information Report for an offence punishable under Section 302 of the Indian Penal Code against unknown persons for the reason that the father of the deceased Dinesh, suspects that his son Dinesh died not due to commission of suicide but,

due to some deliberate act committed by unknown persons thereby giving the case a turn of murder. The grounds taken by him in this petition are admittedly the same grounds which he had taken earlier when he filed two almost identical petitions namely Criminal Writ Petition No. 3 of 2017 and other Criminal Writ Petition No. 1141 of 2017. The Criminal Writ Petition No.3 of 2017 was allowed by this Court by the order passed on 17.04.2017, when it directed transfer of the investigation in the matter to Local Crime Branch with immediate effect, though, this Court recorded a finding that till the date of passing of the order, it had not accepted the contention that this was a case of murder. This Court transferred the investigation to Local Crime Branch only for the reason that it thought it fit to accept that the investigation was not carried out properly. But, the other matter, Criminal Writ Petition No. 1141 of 2017 came to be dismissed by this Court by the order passed on 28.02.2018. Before dismissing the petition, it is seen from the order passed on 28.02.2018 that this Court had considered all the relevant facts and circumstances of the case and also the statements made in the reply of the prosecution. This Court found that when the petitioner was called by the Crime Branch and his statement was recorded afresh, the petitioner only repeated the same story but made some fresh allegations against some unknown persons. The Local Crime Branch conducted due investigation and found that this

was a case of suicide, supported by the medical evidence and corroborated by the statements of various witnesses. This Court, considering the medical evidence and statements of various witnesses, recorded a finding that nothing else was required to be done in the matter and therefore, it dismissed the petition.

5. Today, we asked the learned counsel as to whether or not any new circumstances have been discovered by the petitioner, learned counsel for the petitioner stated that although he represents the petitioner, there is one more Advocate, Mr. M. M. Sudame, who also represents the petitioner and Mr. Sudame knows much more than him and that he can reply the query. He, therefore, sought time from the Court. The ground so taken by the learned counsel for the petitioner to seek an adjournment is not acceptable to this Court and is rejected because Shri Hajare, learned counsel for the petitioner having accepted the brief cannot avoid his duty on the ground that the other Advocate additionally engaged knows better than him.

6. Apart from what is stated above, absence of any substance in this petition is visible without any difficulty, if one goes through the case diary to which, neither the petitioner nor his both Advocates would have any access at this stage, and perhaps it is for this reason they are not aware of the state of facts discovered in the investigation

and thus are repeatedly making efforts to find out something which, as a reality, does not exist.

7. On going through the case diary, we find that there are no new circumstances found in the intense investigation made so far as to doubt the conclusion reached by the Investigating Officer, that this was nothing but a case of suicide. Neither in the statements of the witnesses nor in the medical evidence nor in the report of the Forensic Laboratory, any such circumstance has come to the fore as would reasonably rule out the possibility of suicidal nature of death of Dinesh. The Postmortem report categorically states the probable cause of death as “due to hanging”. The Investigating Officer has also enquired with Dr. D. S. Akarte, Department of Forensic Medicine, G.M.C. and Hospital, Nagpur who has informed the police that the findings recorded in the PM. report indicated that the death had occurred due to ante-mortem hanging. The Investigating Officer has recorded statements of seven relevant witnesses, whose names, in the interest of maintaining confidentiality and sanctity of the investigation are not being revealed here. However, the statements of these witnesses do not show that there was any material for expressing any doubt against any person as regards his involvement in eliminating deceased Dinesh.

8. Apart from the above investigation, the Investigating Officer has also verified the call details record of deceased Dinesh and cross checked it with the statements of all such relevant witnesses as had lastly come in contact with deceased Dinesh. Investigating Officer has, in his reply, stated that scrutiny of the CDR did not reveal any suspicious acts on the part of the witnesses, rather, the CDR corroborates the versions of the witnesses whose statements have been recorded. The Investigating Officer has further stated in his reply that he has examined WhatsApp messages and text messages but he found nothing suspicious in those messages. The Investigating Officer, it is further seen, had conducted the spot visit again but, came across no suspicious circumstances. The Investigating Officer had also obtained information from the Superintendent of Land Record, Sub-Registrar of Nagpur City but, no useful material came forward so as to support the theory of murder, which the petitioner is trying to put forward.

9. The Medical Officers, Dr. R. R. Fulzele and Dr. D. S. Akarte, in their communications dated 30.10.2018 have again opined to the effect that there were no external or internal injuries over the body apart from ligature mark over the neck and that there were no bony or cartilaginous injuries in postmortem findings. They have also opined that the ligature mark along with internal findings of neck are suggestive of death due to ante-mortem hanging.

10. Thus, it is seen that detailed investigation has been made by the Investigating Officer and it is done again and again and yet, no suspicious material or circumstances could be found by him to support the theory of murder of deceased Dinesh. The witnesses are all in agreement that this was a case of suicide. Here, we may state that there is recorded statement of one girl 'X' and it is important for the reason that she was the person who had had last contact and that too physical contact in the nature of sexual intercourse, with deceased Dinesh before his death. Her statement sufficiently reveals the state of mind of Dinesh before his dead body was found hanging on a rope. She had sexual intercourse with him in the morning of 12.08.2016 and she was there with him at his flat just before 11.00 am. of that day. She has stated that after engaging herself physically with Dinesh, in that morning, she was told by Dinesh to leave his apartment. She has also stated that Dinesh had a weird habit of moving around in his apartment in half naked condition with only a baniyan on his person, and that day he had also opened the door of his apartment in such condition only. She has stated that she used to offer advice to Dinesh to shed the habit of moving around half naked in his apartment. She has stated that when she was with Dinesh on that day at the apartment, she had noticed that there was a rope lying in the bedroom and that rope was removed from a place where it was tied for the purpose of drying

clothes. Sensing something different, she has further stated, she asked Dinesh the purpose of bringing rope inside the bedroom. She has stated that she was told by Dinesh that she better ignored it and would better leave his apartment. She has further stated that she reached back her home at about 11.00 a.m. and that till 12.00 p.m. she received no call from Dinesh, which was a departure from the usual practice of Dinesh whereby Dinesh would call her back after some time every time she left his apartment, just to check as to whether or not she had reached back home safely. As she received no call till 12.00 p.m., she has further stated, she called up Dinesh at about 12.00 p.m., but her call could not get connected to him. She has further stated that she felt worried and therefore, about 01.00 p.m., she physically went to his apartment and rang the bell, but, there was no response and as nobody opened the door, she tried to push it open, but in-vain. Then, she has stated that she tried to peep inside the apartment through the glass pane of adjoining window and she was horrified to see that dead-body of Dinesh was hanging by the rope. Thereafter, she gave information to her friends and then the police arrived at the scene.

11. As stated by us, such statement of the girl 'X' reveals the state of mind of Dinesh on the fateful day and it was of despair as well as of deep rebellion against the norms of life. Whatever versions the witnesses have consistently stated have been cross checked by the

police several times over and the Investigating Officer has found no falsehood in those versions. Then as stated earlier, the medical evidence and other circumstantial evidence also support these versions. The petitioner has also not given any name together with some evidence against that person. Thus, we are of the opinion that the investigation carried out by the police is satisfactory and no fault could be found with police in any manner. This is not a fit case for issuing any directions to the police, much less a direction about registration of offence of murder against some unknown person.

12. In the result, we find that there is no merit in this petition. The petition stands dismissed. Case diary is returned.

Rule is discharged.

(AVINASH G. GHAROTE, J.)

(SUNIL B. SHUKRE J.)