

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO.345 OF 2019

Ramesh s/o. Upasrao Godbole,
Aged 47 years, Occ. Service,
r/o. Plot No.24, Pooja Colony,
Farshi Stop, Amravati.

..... **PETITIONER**

// VERSUS //

1. State of Maharashtra,
through Police Station,
Chikhaldara, Tq.Achalpur,
District Amravati.

2. Superintendent of Police,
Amravati Rural,
Amravati.

..... **RESPONDENTS**

Mr.S.P.Bhandarkar, Advocate for the petitioner.
Mr.N.R.Patil, A.P.P. for Respondent Nos. 1 and 2.

CORAM : SUNIL B. SHUKRE &
AVINASH G. GHAROTE, JJ.

DATE : 25.2.2021.

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

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

2. We have heard this matter quite extensively today and it was heard at great length on the last two occasions. At the time of each of these hearings, the Investigating Officer was also personally present. We have gone through the case diary. We have also considered the impact of four circumstances which, in the opinion of learned Counsel for the petitioner, create a suspicion about the cause of death.

3. Mr.S.P.Bhandarkar, learned Counsel for the petitioner advertng to two of such circumstances submits that top of deceased Saloni was pulled upwards revealing some part of her brassiere and her jeans pant's button was also opened and that the parents of deceased Saloni including the petitioner/father, suspected that just

before so called accident, there must have taken place some sort of heated exchange of words or altercations between the boys and girls who were on pleasure trip to Chikhaldara on 15.7.2018 and this was all the more so because, as thought by the petitioner, all the boys and girls including deceased Saloni were drunk. The boys and girls, who were friends of Saloni and who were accompanying Saloni on the pleasure trip were Nayan Bhusari, Abhilash Yeotikar, Yugandhara Warde, Ashish Mohod and Sushil Kadu.

4. We have gone through the statements of these boys and girls and we find that all of them have stated similar versions and the version is about the car which met with accident, having got skidded and falling into the gorge which was about 125 ft. deep and that this was a pure case of accident. They have also stated that while tumbling down the steep slope of the mountain, the door on the opposite side of the driver of car got opened due to which Saloni, who was occupying that seat, got flung outside the car and she fell down on the ground there; while remaining boys and girls, who were occupying the car at that time, continued to be inside the car. Their statements also show that Saloni, with the help of some good samaritan, was taken by a Baleno car to hospital at Chikhaldara and

on way to the hospital, it is further seen, as Saloni was gasping for breath, her top as well as full pant were loosened up somewhat by those who were taking her to the hospital and that was how her parents noticed, when they came to see dead body of Saloni, that her top was somewhat pulled up exposing brassiere of Saloni and the button of jeans full pant was in open condition. This explanation, at this stage, cannot be rejected and so no doubt could be expressed about such condition of clothes of the deceased.

5. The above statements, it can be further seen, do not show suspicion about narration of the incident, which was, in fact, an accident, by the boys and girls accompanying deceased Saloni. Besides, the post mortem report shows that there were hardly any external injuries found to be present on the dead body of Saloni. But there were severe internal injuries caused to the lung, liver and spleen, which ultimately proved to be fatal for deceased Saloni. The post mortem report shows that the probable cause of death of Saloni was "Cardio-respiratory arrest due to haemorrhagic shock due to the injuries to vital organs such as lung, liver and spleen". The Viscera Report has also been received and it shows that no poison in viscera as well as sample of blood was detected. So the findings recorded in

the post mortem report now have been confirmed and the cause of death as “Cardio respiratory arrest” triggered by the injuries to the vital organs namely lung, liver and spleen is now established. These findings are also supported by what has been actually seen upon dissection of dead body of Saloni. When abdomen was opened, the doctor conducting the post mortem examination found presence of 500 ml of free blood in the peritoneal cavity of the abdomen and further found that tear (5 cm x 2 cm) was present over right lobe of liver and another tear of 3 cm size was found over spleen. The post mortem report also noted that laceration (8 cm x 2 cm) was noticed over lower lobe of right lung and it was also noticed that there were multiple contusions over surface of left lung and a small tear present at the lower lobe. These internal injuries were severe in nature and they support the opinion recorded by the doctor as regards the cause of death. This very post mortem report, however, finds hardly any external injuries except the minor abrasions found all over the body and slight abrasion present over back portion. The post mortem report also notes absence of any fracture of bones.

6. Now, if it is to be accepted that there was a commotion and perhaps assault before the accident and a show of accident was

made, there would have been certainly some or other kind of external injuries. Then, the petitioner does not have any idea about the manner in which so called or imagined assault may have taken place. The petitioner does not say that some hard and blunt object was used to hit Saloni on her abdomen. In fact, with this background, it appears to us that the theory of commotion and assault as of now is only in the realm of imagination of the petitioner and it has so far not travelled beyond that. We would be very much willing to accept this theory if any other circumstance, which would atleast suggest that there was indeed a reasonable possibility of assault having taken place, had been pointed out to us or brought on record by the petitioner. But, it is not so. It is also not the case of the petitioner that there was some motive for the other boys and girls accompanying deceased Saloni at the relevant time to look down upon Saloni and eliminate her for that reason. So, as of now, the theory of some altercation, fight and attack cannot be accepted.

7. It is also submitted by the learned Counsel for the petitioner that there was a Baleno car involved in the scene post accident as it was by this car, as stated by the boys and girls, that Saloni was taken to Chikhaldara hospital, and that this is another

suspicious circumstance. He submits that this car has never been traced out nor any attempt has been made to find the driver of the car and record his statement. Mr.Patil, learned A.P.P. submits that reasonable effort in this regard has been made and in support, he has produced before us the entry taken in this regard in the case diary. We have gone through the same and are satisfied that, in spite of reasonable efforts having been made by the Investigating Officer, no success could be notched by him in this regard. So, nothing amiss could be seen in the investigation made so far by the Investigating Officer just because till date said car and it's driver have not been traced out.

8. Mr.S.P.Bhandarkar, learned Counsel for the petitioner further submits that the petitioner had visited the spot of incident after the accident and he had noticed that one blue shirt was lying there ,which he picked up and brought it home just to inquire whose clothing could it be and the petitioner submits that his wife upon inspection of the blue shirt, told him that such kind of shirt was worn by Nayan Bhusari, one of the friends of Saloni who had gone along with her to Chikhaldara. Learned Counsel for the petitioner submits that this shirt though lying at the spot of incident and was belonging

to Nayan Bhusari, was not seized by the Investigating Officer nor any investigation was made by him in that regard. According to him, this is fourth suspicious circumstance. We do not understand the purpose for which the said shirt was picked up and brought home by the petitioner. If the petitioner had found that shirt was lying at the spot of incident, his first duty was that he ought to have given it's information to the Investigating Officer immediately and then waited for the Investigating Officer to take further action in the matter as warranted by law. The petitioner, however, did not perform his duty and instead, brought home said shirt. Now, the position is that whatever additional evidence that could have been collected by the Investigating officer has been lost or tampered with and even if any investigation is now made as regards finding of this shirt, it would have hardly any evidentiary value. Besides, only because a third person says that such kind of shirt is worn by the suspect, it cannot be said with certainty that the shirt belongs to the suspect only and nobody else for the simple reason that the shirts of similar colour are abundantly available in open market.

9. Thus, we find that there are no circumstances which could be said to be suspicious reasonably leading the needle of

suspicion towards the boys and girls who were accompanying deceased Saloni on the fateful date. The investigation that has been so far carried out by the Investigating Officer, as seen from the careful perusal of the case diary, is satisfactory and we do not see that there was something lacking in the efforts so far made by the Investigating Officer.

10. In these circumstances, we are of the view that no reliefs, as prayed for by the petitioner, could be granted atleast as of now and this petition deserves to be dismissed with liberty.

The petition, therefore, stands dismissed with liberty to the petitioner to approach the Investigating Officer and if required, this Court also, for fresh consideration in accordance with law in case any such new material, as would require further consideration, is discovered.

JUDGE

JUDGE

[jaiswal]

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