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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.370/2019

Smt Nayna w/o Satish Komreliwar
Age 32 Yrs., Occ.: Household,
R/o Allapalli, Tah. Aheri,
Distt. Gadchiroli.

..... PETITIONER

// VERSUS //

- 1) State of Maharashtra,
Through Secretary,
Home Department,
Mantralaya, Mumbai.
- 2) Superintendent of Police,
Gadchiroli, Distt. Gadchiroli
- 3) Dy. Director, Land Record,
Old Secretariat Building,
Civil Line, Nagpur.
- 4) District Superintendent
of Land Record,
Gadchiroli, Distt. Gadchiroli.
- 5) Dy. Superintendent of Land Record,
Dhanora, Distt. – Gadchiroli.
- 6) Officer on Duty Police Station,
Dhanora, Distt. Gadchiroli.

.... RESPONDENTS

Shri C. N. Funde, Advocate for petitioner
Shri S. M. Ghodeswar, Addl.PP for the respondents.

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

DATED : 02/02/2021

ORAL JUDGMENT : (PER:- SUNIL B. SHUKRE, J.)

- 1] Heard. **Rule.** Rule made returnable forthwith.
- 2] Heard finally by consent of the learned counsel appearing for the parties.
- 3] By this petition, the petitioner, widow of deceased Satish Komreliwar has sought writ of mandamus directing respondent nos.1 and 2, the Home Secretary, Mumbai and Superintendent of Police, Gadchiroli to re-investigate the incident of suicide committed by deceased Satish in the office of respondent no.5, the Deputy Superintendent Land Record, Dhanora, district Gadchiroli with a further direction for registering an offence punishable under Section 307 of the Indian Penal Code against those whose names are mentioned in the suicide note left by deceased Satish.
- 4] The facts of the case briefly stated are as under:
 - (i) Deceased Satish Komreliwar was posted to the office of Deputy Superintendent, Land Record, Dhanora as Surveyor

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and was working under the control and supervision of the Deputy Superintendent Land Record at the relevant time. Deceased Satish had some behavioural issues as could be seen from the facts brought on record by respondent no.6, the Investigating Officer, in the reply filed by him. Deceased Satish appeared to be not obedient and not following the office decorum. He was given to habit of remaining absent unauthorizedly for longer durations. On 25.02.2011, he was directed to attend one training programme at Aurangabad and was also relieved from the Dhanora office on the same day. But, instead of joining the training programme, deceased Satish went elsewhere with the result that he was seen as avoiding training programme and also keeping himself away from attending his office at Dhanora. At that time he remained absent from office for a considerable period of time. He ultimately reported to office on 17.08.2011 with an intention to join his duty. But, since he had remained unauthorizedly absent for a period which was more than six months, he was called upon to present himself before the Medical Board of Government College and Hospital at Nagpur and obtain a fitness certificate from the Medical Board. Deceased Satish did not like it and therefore, he did not comply with the order. Sometime thereafter, on

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20.09.2011, deceased Satish came to office under the influence of liquor and at that time he was carrying in his hand a sharp weapon. Deceased Satish brandished the weapon and issued threat to the employee present at the office. Deceased Satish then went to Deputy Superintendent Land Record and hurling abuses at him, ransacked the office articles like fan, table and chairs and also broke the window panes of the office. Ultimately, he was charge-sheeted for his such indisciplined behaviour under Rule 3(1)(2)(3) and Rule 28(A)(B)(C)(D)(E) of the Maharashtra Civil Service (Conduct) Rules, 1979. Offences punishable under Sections 427, 494 and 506 of the Indian Penal Code vide Crime No.3006 of 2011, were also registered against him at Police Station, Dhanora. The departmental inquiry that was initiated against him was completed in accordance with the procedure and punishment of compulsory retirement from service was awarded to him. As a result, he was compulsory retired with effect from 07.01.2014.

(ii) As deceased Satish was compulsorily retired, he was not deprived of his pensionary benefits, which were payable to him in accordance with rules. In fact, they were directed to be paid to him in accordance with rules.

(iii) After such compulsory retirement of deceased

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Satish, it appears that he was not in a proper frame of mind and his distressed condition appeared to be there till the fateful day when his dead body was found to be in a hanging condition in the morning of 20.01.2014, at about 9.30 a.m., at the office of the Deputy Superintendent, Land Record, Dhanora. Immediately thereafter, a report was made at Police Station, Dhanora and on its basis, an AD inquiry bearing No.2 of 2014 was registered at the police station under Section 174 of the Code of Criminal Procedure. Statements of various witnesses were recorded in this inquiry and those witnesses included widow of the deceased who is the present petitioner.

(iv) A copy of the statement of the petitioner recorded in this AD inquiry is available on record. The statement has been recorded on 27.01.2014. In this statement, petitioner expressed no suspicion against anybody. In fact, petitioner categorically stated that she was unable to assign any reason for such untimely death of deceased Satish. There were also some suicide notes found during the course of the AD inquiry and from those notes, it was noticed that it was a case of suicide and that deceased Satish had put the entire blame for his committing suicide on Bhagwan Sitaram Bhoje, the then Deputy Superintendent Land Record, Dhanora, though the

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suicide note gave no details of alleged harassment, such as dates, place, nature and so on. Copies of the suicide notes are available on record and they are at page nos.55, 56 and 57. In the 3rd suicide note, however, names of few more persons are taken, but no blame has been placed on them. It is only stated that those named persons be not allowed to touch his dead body. About the other two suicide notes, we may reiterate that except for saying that Shri Bhoje was responsible nothing more was written. So, the suicide notes by themselves were not sufficient to reach to the conclusion that commission of suicide was, *prima-facie*, a case of abetment of suicide. To worsen the problem, there were no witnesses either including the petitioner who would furnish any details about the kind of harassment that was being allegedly given to deceased Satish by Shri Bhoje. The postmortem report also did not give any clue about the nature of death of Satish except for the one relating to suicidal nature of his death.

(v) This was thus a case of no incriminating material having been found against anybody during the course of AD inquiry. It was, therefore, concluded that death of Satish was on account of suicide committed by him and thus the AD inquiry was finally closed on 25th February, 2019.

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5] It was after such closure of the AD inquiry that the petitioner now has approached this Court seeking a direction for reinvestigation of the incident of commission of suicide by her husband.

6] According to the learned counsel for the petitioner, the husband of the petitioner was subjected to a lot of torture and mental harassment in his office and that was at the hands of his superior officer, one Shri Bhoye, the then Deputy Superintendent Land Record, Dhanora. Such contention of the petitioner, as rightly submitted by learned Addl. P. P., flies directly in the face of what she has stated before police when her statement was recorded on 27.01.2014 during the course of AD inquiry. At that point of time, the petitioner did not blame the conduct and behaviour of Shri Bhoye as something behind commission of suicide by her husband. Then, it is an admitted fact that way back in June 2013 or to be precise on 07.06.2013, Shri Bhoye was transferred to Nashik and thereafter whatever happened was only because of the own conduct, rather misconduct of petitioner's deceased husband himself. If Shri Bhoye, was transferred to Nashik from Dhanora about seven months before the suicide, it is certain that for about seven months prior to date of incident, there was no question of so

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called harassment whatsoever at the hands of Shri Bhoje. In this back-ground that we have to consider the sequence of events discussed earlier. They disclose serious misconduct of deceased Satish and repeatedly and which resulted into his receiving punishment in a disciplinary action and it was in the nature of compulsory retirement. All these facts and circumstances together would show that the contention that there was great harassment being meted out to deceased Satish in his office and in particularly at the hands of Shi Bhoje, is baseless, to say the least.

7] It is also not the case of the petitioner that AD inquiry that was conducted after the death of Satish from January 2014 till 25.02.2019 was done in an improper manner and that many of the material circumstances were ignored. Learned counsel for the petitioner has not pointed out to us as to which circumstances and statements of which of the witnesses could have been material in this inquiry. On going through the reply filed on behalf of respondent no.6, we find that this inquiry was conducted in a satisfactory manner and as of now there is nothing available on record for us to express any doubt about the fairness and efficacy of the inquiry so conducted and the conclusion reached at the end of the inquiry.

About the suicide notes, we have already pointed out as to how they do not by themselves constitute any basis for registration of any offence.

8] There are a few more relevant circumstances which would, in our opinion, show the hollowness of the claim of the petitioner. As we have stated earlier, dead body of Satish was found from his office in the morning of 20.01.2014. Almost about three months thereafter, i.e. on 09.04.2014, this petitioner made an application to the then Deputy Director Land Record, Dhanora for appointing her in place of her husband on compassionate ground. At that time, Shri Bhoje had already been transferred to Nashik and some other officer was officiating in his place. This application filed by the petitioner came to be rejected on 10.07.2014 on the ground that as her husband had already been compulsorily retired and thus had not been in service, her application seeking compassionate appointment could not be granted. Later on, the petitioner filed another representation with the Higher Authority, one Jamabandi Commissioner/Director, Land Record, Pune 28.04.2017 making a request for cancelling the punishment of compulsory retirement given to her husband. Then, she also made another application seeking her appointment on

compassionate ground, which was rejected once again on 05.06.2017. Thereafter, petitioner filed original application before the Maharashtra Administrative Tribunal, Mumbai Bench at Nagpur vide OA Stamp No.36 of 2020 seeking two reliefs regarding quashing of the order of compulsory retirement of her husband and granting the petitioner compassionate appointment. The prayers made in this application read as follows:

“i) To quash and set aside the order dated 07/01/2014 – Annex Q issued by Dy. Director Land Record division Nagpur respondent No.2 & order dt.5/6/2017 issued by Jamabandi Commissioner, Pune Annex.Y thereby retired the husband of applicant deceased Satish Komreliwar compalsary from his service and directed to the respondent to appoint the applicant in place of her deceased husband as per her qualification on compensatory ground.

ii) To direct the respondents to appoint the applicant on compensatory ground in place of her husband Satish Komreliwar pending decision of the application by way of interim relief.”

9] In this application filed before MAT, Nagpur, it is interesting to note, the petitioner made an allegation that she was told by her deceased husband that because of harassment given to him by Shri Bhoje he would finish his life. In this application no date or any period of time when such disclosure

was made to her by deceased Satish has been stated. This allegation runs contrary to the statement made during the course of AD inquiry by the petitioner to the effect that at that point of time she could not state any reason for commission of suicide by her deceased husband. It is not known as to whether or not petitioner mentioned the said fact of harassment of her husband at the hands of Shri Bhoje when she made an application on 09.04.2014 seeking appointment on compassionate ground. It is also not known as to whether or not this allegation was levelled by her in her application dated 28.04.2017 made to Jamabandi Commissioner/Director Land Record, Pune requesting him to quash and set aside the order of compulsory retirement and also in another application dated 05.06.2017 seeking her appointment on compassionate ground. Another interesting fact is that after her statement dated 27.01.2014 wherein the petitioner expressed no suspicion over anybody regarding abetment of commission suicide by her husband, the petitioner did not file any complaint with any of the Higher Authorities of the deceased husband and also Police Station, Dhanora making allegations against Shri Bhoje or any other officer or employee working at the office of Deputy Superintendent, Land Record, Dhanora.

10] These background facts and the silence of the petitioner would together show that the demand for re-investigation of the incident of commission of suicide by the deceased Satish has been made by the petitioner possibly for the reason that now the petitioner has been annoyed at rejection of her two applications for her being appointed on compassionate ground and also the rejection of her application for recalling/quashing of the order of compulsory retirement by the Higher Authority. If this were not so, and if the case of the petitioner were to be genuine, the petitioner would not have waited for such a long period of time in approaching this Court or for that matter any other Authority having power to make investigation or re-investigation into the incident. Interestingly, till this date, the petitioner has not filed any complaint with Police Station, Dhanora giving all the details about the harassment allegedly given to her husband by Shri Bhoje or any other officer or employee then working at Dhanora Land Record office.

11] Then, if the allegations of alleged harassment given by Shri Bhoje to deceased Satish were to be considered in any way, still, in our opinion, these allegations by themselves would not constitute any instigation as contemplated under Section

107 of the Indian Penal Code, so necessary for registration of an offence of abetment of suicide punishable under Section 306 of the Indian Penal Code. The reason being that Shri Bhoye was admittedly transferred from Dhanora to Nashik on 07.06.2013 and the suicide was committed between 18.01.2014 and 20.01.2014. This gap of about seven months between June 2013 and January 2014 finally snapped the live link between the alleged acts of harassment if any and commission of suicide.

12] There is one more perspective from which the whole incident is required to be examined. Ultimately, Shri Bhoye was only performing his supervisory duty and if he had requested deceased Satish to appear before Medical Board or bring medical certificate or had issued show cause notices to him, the supervisory officer cannot be blamed for it as whatever he had done or would have done, was or would be within his ostensible authority to exercise control and superintendence over his sub-ordinate staff. Such authority of a superior officer must not be questioned. But, in this case, we feel an attempt has been made to cast a cloud over such authority of the officer by levelling a serious allegation of abetment of commission of suicide by Satish. If the action of such superior officer are considered to be illegal bordering on harassment by any

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employee, suitable remedial measures are always available within the administrative set up and if such employee, instead of resorting to an in house procedure for redressal of his grievance commits suicide, such employee would only be responsible for it, and no one else. It is for this reason that we are of the view that the facts of this case are squarely covered by the view taken by Co-ordinate Division Bench of this Court in the case of *Dilip Ramrao Shriasrao and Ors. Vs. State of Maharashtra*, reported in **2016 ALL MR (Cri) 4328**.

13] In the result, we find that there is no merit in this petition. We further find that the conclusion drawn in the AD inquiry bearing No.2 of 2014 regarding suicidal death of deceased Satish cannot be doubted.

14] The Writ Petition stands dismissed.

Rule is discharged.

JUDGE

JUDGE