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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1426 OF 2017

Kalpana w/o Kachru Ratnaparkhe,
Age : 29 years, Occ.: Household,
R/o: Math pimpalgaon, Tq.: Ambad,
Dist: Jalna.

.. PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Principal Secretary
Home Department Mantralaya
Mumbai-32.

2. The Superintendent of Police,
Jalna, Tq.: & District: Jalna.

3. The Police Inspector
Ambad Police Station,
Tal.: Ambad, Dist: Jalna.

4. Gayabai w/o Dashrath Ratnaparkhi .. DELETED

5. Chaya Santosh Ratnaparkhe .. DELETED

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Mr. S. G. Jadhavar, Advocate for Petitioner

Mr. M. M. Nerlikar, APP for Respondents No. 1 to 3

...

WITH

CRIMINAL WRIT PETITION NO. 51 OF 2019

Gayabai w/o Dashrath Ratnaparkhe,
Age : 66 yrs, Occu. Retd ;
R/o. Math Pimpalgaon, Tq. Ambad,
Dist. Jalna.

.. PETITIONER

VERSUS

1. The State of Maharashtra,
Through The Special Inspector
General of Police,
Aurangabad.
2. The Superintendent of Police,
Jalna.
3. The Police Inspector,
Ambad Police Station,
Tq. Ambad, Dist. Jalna.

.. RESPONDENTS

...
Mr. R. C. Bora, Advocate for Petitioner
Mr. M. M. Nerlikar, APP for Respondents No. 1 to 3
...

**[CORAM : DIPANKAR DATTA, CJ &
NITIN B. SURYAWANSHI, J.]**

DATE : 17th FEBRUARY, 2022

ORAL ORDER (PER : NITIN B. SURYAWANSHI, J.) :

1. One Kachru Dashrath Ratnaparkhe went missing on 6th June, 2017. Kalpana wife of Kachru lodged a missing report on 9th June, 2017 with Ambad Police Station, District – Jalna, which is registered as Missing Report No. 12 of 2017. As Kachru was not traced, Kalpana filed Criminal Writ Petition No. 1426 of 2017 seeking a writ of habeas corpus for production of

Kachru – her husband.

2. On 10th October, 2017, Gayabai, wife of Dashrath Ratnaparkhe, mother of Kachru lodged a report with Ambad Police Station raising a suspicion that her daughter in law Kalpana and Parmeshwar Jige, Baburao Jige, Rameshwar Jige, Lankabai Parmeshwar Jige, Chayabai Rameshwar Jige and Kalpana Kachru Ratnaparkhe, have kidnapped Kachru and must have killed him.

On the basis of the said report lodged by Gayabai, Crime No. 196 of 2017 was registered with Ambad Police station for the offence punishable under section 364 read with 34 of the Indian Penal Code. During the course of investigation, on the basis of confessional statements of some of the accused, sections 302, 201, 120 (B) of the Indian Penal Code and section 3 (2) (5) of the Prevention of Atrocities Act were added in CR No. 196 of 2017.

3. Gayabai, mother of Kachru, filed Criminal Writ Petition No. 51 of 2019 seeking transfer of the investigation of Ambad Police Station Crime No. 196 of 2017 to CID and for direction to arrest the accused persons.

4. Learned Additional Public Prosecutor, on instructions, has submitted that "A" summary report has been filed by the investigating agency under section 173 of the Code of Criminal Procedure in Crime No. 196 of 2017 in Sessions Court, Ambad, on 26th June, 2021 . The report has been produced before us.

5. We have perused the said report. Steps taken in the investigation are disclosed in the report. It is stated in the report that after conducting thorough investigation, in spite of best possible efforts on the part of the investigating agency, missing person Kachru could not be traced. No cogent evidence is found against the accused persons. Therefore, by continuing

the investigation, "A" final report / summary is filed. The note at the bottom of the report states that at present no sufficient evidence is found against the accused persons and during the investigation of the crime, if sufficient evidence is found, the investigating agency has kept the option of filing separate charge sheet, open.

6. As per Rule 219 of the Bombay Police Manual, 1959, "A" final report can be filed in the cases which are found true, but are undetected. In the facts of the present case, though the accused is known, but since there is no evidence to justify they being sent up to the Magistrate for trial, "A" final report has been submitted.

7. In view of the submission of "A" final report before the competent court, since missing person Kachru could not be traced in spite of best possible efforts taken by the investigating agency, no relief can be granted in habeas corpus petition.

8. So far as Criminal Writ Petition No. 51 of 2019 is concerned, since "A" final report is submitted by the investigating agency in the court of Sessions Judge, Ambad, the petitioner can oppose the same by filing protest petition and agitate her grievance before the Sessions Court.

9. Taking into consideration the above aspects, both the criminal writ petitions No. 1426 of 2018 and 51 of 2019 are disposed of. Petitioners are at liberty to pursue the remedy available in law. It is made clear that we have not gone into the merits of the matter.

[NITIN B. SURYAWANSHI, J.] [CHIEF JUSTICE]