

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

949 CRIMINAL WRIT PETITION NO.388 OF 2022

**PREETI SAMBHAJI WADACHKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner: Mr. Shekade Shashikant E
APP for Respondents: Mr. R. D. Sanap

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**CORAM: SARANG V. KOTWAL &
BHARAT P. DESHPANDE, JJ.**

DATE: 13th JULY, 2022

PER COURT:

1. This is a Petition for direction to transfer the investigation in C.R. No.251 of 2021 registered at Wadwani Police Station to either Deputy Superintendent of Police, Kaij or any other independent investigating agency.

2. Heard learned Counsel for the Parties.

3. The F.I.R. is lodged by one Preeti Wadachkar about death of her father Sambhaji in suspicious circumstance. In fact, in the F.I.R. she clearly named the accused who according to her committed his murder. She has stated that there

was dispute between the her deceased father and his brother Prakash and his family. On 12.12.2021, there was an incident wherein the deceased was threatened. On 13.12.2021 the informant's mother and brother had gone to Latur to attend a wedding. Informant had gone to Beed. The father of the informant was alone at Kuppa. At about 10:57 PM the informant received a telephonic call from her cousin Vasant that the informant's father was lying in injured condition near Telgaon Factory with his Scooty. He was taken in an ambulance to Beed. The informant and others rushed to the hospital. While her father was being removed from the ambulance, she asked him about the incident. At that time, he gave names of the persons who had assaulted him with sharp weapons. After that, her father was treated in the hospital but he lost his consciousness. On this basis the F.I.R. was lodged under Section 307 of the Indian Penal Code, 1860.

4. According to the first informant, when he regained his consciousness, he was unable to speak, but he wrote names of the assailants. The

photograph of the deceased writing the names was taken. According to the first informant, the investigating agency did not take any steps to add Section 302 of the Indian Penal Code to the offence. They did not given sufficient importance to the oral dying declaration made by the deceased to the first informant as well as the names which he had written on the piece of paper.

5. Learned APP relied on the *affidavit-in-reply* to oppose the prayer for transfer of investigation. The *affidavit-in-reply* mentions that Spot Panchanama carried out. Statement of one witness namely Mahadev Jadhav was recorded under Section 164 of the Code of Criminal Procedure, 1973. He had seen the injured Sambhaji lying on the spot. There is statement of Balaji who was a tractor driver. He had also seen the injured lying on the spot. The Investigating Officer has stated that the deceased was unconscious and did not say anything regarding the incident and, therefore, his statement was not recorded.

6. The *affidavit-in-reply* does not really show that the investigation has progressed in the right direction. There is no reference to the oral dying declaration given by the deceased to the informant. There is no reference to the piece of paper on which the deceased had given names of his assailants. There is no explanation as to why Section 302 of the IPC is not added. The postmortem notes show that he had suffered injuries on different parts of the face and the cause of death was mentioned as death due to septic due to multiple fractures over facial bone and left eye injury. Thus the matter requires serious investigation. The investigation carried out so far is not satisfactory at all. Therefore, without making any comments about involvement of any persons, we agree with learned Counsel for the Petitioner that the investigation needs to proceed in a better manner.

7. In that view of the matter, the Petitioner has made out a case for transferring the investigation from the Investigating Officer

who is carrying investigation into the offence at present. Since sufficient time has elapsed, there is some urgency in the matter. Therefore, we are directing the Respondent No.7 the Deputy Superintendent of Police, Kaij, District Beed to take over the investigation in this case.

8. With this direction, the Criminal Writ Petition is disposed of.

[BHARAT P. DESHPANDE, J.] [SARANG V. KOTWAL, J.]

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