

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

914 CRIMINAL WRIT PETITION NO.657 OF 2021

BHAGWAT UDHAVRAO SHINDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner: Ms. Ashwini A. Lomte, h/f Mr. Sudarshan J. Salunke.
APP for Respondent/State: Mrs. P. V. Diggikar.
...

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

DATE : 15th June, 2022.

PER COURT:

. This is the petition for directions to register FIR in respect of homicidal death of the petitioner's son.

2 The petitioner has stated in his petition that his son Ganesh @ Shubham had attended a religious ceremony on 5th February, 2019 at village Narsapur. After that he did not return home and search was undertaken for finding him. In the intervening night between 5th February, 2019 and 6th February, 2019, his dead body was found in a well of agricultural land of one Dnyanoba Shinde. A rope was found around his waist and injuries were visible on his dead body. The gold ornament worn by him was missing. The postmortem was conducted and the cause of death was mentioned as "Drowning

Associated with Head Injury”. The petitioner has raised suspicion about his death. The petitioner’s father informed this matter to Nava Mondha Police Station, Parbhani. The Accidental Death Report No.4 of 2019 was registered and inquiry was made in connection with that report. FIR was not registered. It is the case of the petitioner that on 11th March, 2019 he had raised his grievance before the Superintendent of Police, Parbhani. However, no concrete steps were taken except going on with the accidental death inquiry. According to the petitioner, it is a clear case of homicide and therefore, the matter needs to be investigated after registration of FIR.

3 Heard Advocate Ms. Ashwini A. Lomte, holding for Mr.S.J.Salunke, learned counsel for the petitioner and Mrs.P.V.Diggikar, learned APP for the State.

4 Learned counsel for the petitioner invited our attention to the postmortem notes. She submitted that reading of the postmortem notes itself show that there were atleast seven ante-mortem injuries. Coupled with this fact, a reasonable suspicion expressed by the petitioner shows that proper police investigation after registration of FIR is necessary. The police have practically ignored the attempts of the unfortunate father for seeking justice for his nine years old son.

5 Learned APP produced a final report in the nature of summery report in respect of the said Accidental Death Report No.4 of 2019. She also produced the papers regarding inquiry conducted in that connection. Learned APP submitted that summery report dated 25th April, 2022 shows that the Sub-Divisional Magistrate, Parbhani, who had conducted the inquiry had called for objections from the relatives and the interested persons from the family of the petitioner. However, nobody had approached him. Learned APP submitted that the petitioner can still approach the Sub-Divisional Magistrate, Parbhani and raise his grievance.

6 We have perused the relevant papers and we have also considered the submissions made by learned counsel for the petitioner as well as learned APP.

7 As rightly submitted by learned counsel for the petitioner, the postmortem notes show that there were seven injuries on the dead body. They were described as ante-mortem injuries. There was on serious injury on left parieto-occipital region of the size 2.5 cmX0.5 cm, which was bone deep. The other injuries were on the face, cheek, neck, chest etc. The cause of death was mentioned as “Drowning Associated with Head Injury”. Thus, there is sufficient indication in the postmortem notes that before he was thrown in the well, he had

suffered all these injuries. This aspect has remained unexplained. The family of the deceased including Datta Shinde, who was uncle of the deceased, Mukta, who was stepmother of the deceased, Tulsabai, who was grandmother of the deceased and Bhaskar, who was another uncle of the deceased had expressed suspicion. The owner of the well has also stated the the rope tied to nearby cement pole was found in the well. The others have also mentioned that there was a rope near the dead body in the well. Thus, reasonable suspicion was already expressed by various witnesses and yet a summery report concluding that it was a accidental death was prepared by the Sub-Divisional Magistrate, Parbhani. Looking at the material, we are satisfied that the matter requires thorough investigation after registration of FIR. The circumstances are suspicious. Therefore, it is necessary that FIR is registered and the investigation is carried out. We are also conscious of the fact that in spite of repeated attempts by the petitioner to implore the police to register the offence, no step was taken. Therefore, it would be better if the investigation is carried out by the officers of some other police station under the supervision of a senior police officer. Hence, the following order :

ORDER

- I. The officers of the Parbhani Rural Police Station shall register FIR at the instance of the petitioner for the

offence punishable under Section 302 of the Indian Penal Code.

- II. The investigation, however, shall be transferred to and carried out by Nanalpeth Police Station, Parbhani under the supervision of the Deputy Superintendent of Police, District Parbhani.
- III. With these observations, the criminal writ petition is disposed of.

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[BHARAT P. DESHPANDE, J.]

[SARANG V. KOTWAL, J.]